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INDIANA STATUTES
RELATING TO
TOWNSHIP TRUSTEES
CONCERNING
THEIR DUTIES, POWERS AND
PROHIBITIONS
ISSUED BY THE
STATE BOARD OF ACCOUNTS
1915



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INDIANA STATUTES

RELATING TO

TOWNSHIP TRUSTEES

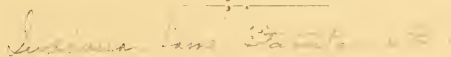
Concerning Their Duties, Powers and Prohibitions

ISSUED BY THE
STATE BOARD OF ACCOUNTS

GILBERT H. HENDREN, State Examiner
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COMPILED BY
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GEORGE M. CRANE, Law Clerk, of the Department



INDIANAPOLIS :
WM. B. BURFORD, CONTRACTOR FOR STATE PRINTING AND BINDING
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PREFACE.

The offices of county commissioner and township trustee are two of the most important to the taxpayers of the State, for the reason that such officers expend for various purposes, as provided by law, practically three-fourths of the taxes paid by the taxpayers. Such officials should, therefore, know the law governing the expenditure of the various funds coming into their hands.

The laws governing these two important offices have been compiled by this department in separate volumes. The stupendous task of separating and compiling the laws pertaining solely to the duties of these officers and the elimination of all laws repealed directly or by implication has been performed by Mr. George Pence, an expert field examiner, with the assistance of and under the close scrutiny of Mr. George M. Crane, the legal clerk of this department.

I believe that the information to be derived by such officials from these volumes will be of great value to them, and that the faithful compliance therewith by said commissioners and trustees will save the taxpayers of Indiana tens of thousands of dollars annually.

A copy of the volume concerning the duties of both the county commissioners and township trustees will be mailed to each of the 276 county commissioners, the 92 county auditors and the 92 county attorneys of the State.

A copy of the volume concerning the duties only of township trustees will be mailed to each of the 1,016 township trustees of the State.

G. H. HENDREN,
State Examiner.

STATE BOARD OF ACCOUNTS,
Indianapolis, Indiana, May 1, 1915.

TOWNSHIP TRUSTEE.

FOREWORD.

The intent of this compilation is to give the gist of all acts of the State governing the township trustee.

Reference should be had to the statutes for more extended information.

The number when used in the date line, of each section, herein, refers to the section in Burns' R. S. 1914. In a few cases it has been deemed wise to set out the act entire.

EDITOR.

CONSTITUTION.

(Section 153.)

1. Provisions for Township Officers. The Constitution of Indiana provides for the election or appointment of the necessary township officers, as may be prescribed by law.

(Section 156.)

2. Must reside and keep office in township. All county, township and town officers shall reside within their respective counties, townships and towns; and shall keep their respective offices at such places therein, and perform such duties as may be prescribed by law.

(Section 220.)

3. Limitation of township's indebtedness—Exceptions. By the provisions of the amendment to the Constitution of Indiana, adopted March 14, 1881, no municipality can incur an indebtedness, in any manner, in excess of two per centum on its taxable property.

The only exceptions are in time of war, foreign invasion or other great public calamity, and then only on a petition of a majority of its property owners.

(Section 225.)

4. Tenure of office. Whenever it is provided by the constitution, or in any law, that any officer, other than a member of the general assembly, shall hold his office for a given term, the same shall be construed to mean that said officer shall hold his office for such term and until his successor shall have been elected and qualified.

LAYING OFF CIVIL TOWNSHIPS.

(Acts 1859, p. 220, Sec. 9559.)

5. How civil townships should be laid off. Boards of county commissioners in each county may lay off and divide the same into any number of townships that the convenience of the citizens may require,

and may, from time to time; make such alterations in the number, names and boundaries of such townships as they may deem proper.

(Acts 1859, p. 220, Sec. 9560.)

6. Boundaries to be recorded. Descriptions of boundaries, alterations of boundaries and boundaries of new townships shall be entered at full length on the records of the board of commissioners.

ELIGIBILITY LIMITED.

(Acts 1899, p. 425, Sec. 9564.)

7. Eligible to office, only four out of eight years. No person shall be eligible to the office of township trustee more than four years in any period of eight years.

NUMBER OF TOWNSHIPS AND TRUSTEES.

(Acts 1859, p. 181, Sec. 6404.)

8. A corporation and a body politic. The ninety-two counties of Indiana contain 1,016 civil townships. Each township is declared to be a school township, and as such to be a body politic by the name of "_____ school, _____ township of _____ county" according to the name of such township and of the county where organized.

As such corporation it can contract and sue, and be contracted with and be sued in any court of competent jurisdiction.

Under the same act it is provided that each and every township (see Burns' R. S. Sec. 9562) that now is or may hereafter be organized in any county is declared a body politic and corporate, by the name and style of "_____ township of _____ county," according to the name of township and county in which the same may be organized; and by such name it may contract and be contracted with, sue and be sued in any court having competent jurisdiction.

TRUSTEE.

(Section 6405.)

9. Acts separately in township and school matters. For each township there is but one trustee, who, in the performance of his duties acts separately as trustee of the civil township and as trustee of the school township.

TRUSTEES' BONDS—VACANCY.

(Acts 1865, p. 3, Sec. 6406.)

10. Auditor fixes amount, approves and accepts. The county auditor, in fixing the penalty and approving the bonds of township trustee, shall see to the sufficiency of the bonds to secure the school revenues, which may come into their hands, as well as the township and other revenues, during their term.

(Acts 1915, p. 126.)

10a. Official bond. Before entering upon the duties of his office the trustee of every township shall execute a bond conditioned as in ordinary official bonds in a penal sum of not less than the amount of money which may come into his hands at any one time as trustee of the civil township and of the school township to the acceptance of the county auditor. Such bond may be executed by a surety company or by two or more freehold sureties to be approved by the county auditor.

Note: The premium of such bonds can not be paid out of public funds.

(Section 9103.)

11. Auditor to file and preserve bond. This bond must be filed with the county auditor.

(Acts 1 R. S. 1852, p. 166, Sec. 9109.)

12. Approval of to be indorsed thereon. The approval of every official bond shall be written thereon by the approver thereof; and no bond shall be filed until lawfully approved.

FAILURE TO GIVE BOND.

(Acts 1 R. S. 1852, p. 166, Sec. 9110.)

13. Failure to give, vacates office. If any officer of whom an official bond is required shall fail, within ten days after the commencement of his term of office and receipt of his commission or certificate, to give bond in the manner prescribed by law, the office shall be vacant.

(Acts 1865, S. p. 178, Sec. 9116.)

14. Must be officially acknowledged. No official bond of any public officer shall be accepted or approved, until the execution thereof shall have been duly acknowledged before some officer authorized to take acknowledgment of deeds, both, by the principal and his sureties executing the same; and such acknowledgment duly certified thereon by such officer taking the same.

Note: Failure to acknowledge a bond does not make it void.

BONDS—SURETY COMPANIES.

(Acts 1879, p. 192, Sec. 5728-5729.)

15. Approved surety company's bond. Bonds executed by surety companies which are authorized to do business in the State by the auditor of state are acceptable as surety on the official bond of the township trustee.

COMMISSIONS OF TOWNSHIP OFFICERS.

(Acts 1 R. S. 1852, p. 223, Sec. 9139.)

16. Election inspectors to issue. All township officers except constables shall receive certificates of their election from the board of judges (election inspectors) of the townships for which they shall be elected. See Sec. 6987 Burns' R. S.

(Section 9138.)

17. When given by clerk of circuit court. Constables receive the certificate of election from the clerk of the circuit court.

REMOVAL FROM TOWNSHIP OF TRUSTEE.

(Section 9770.)

18. Trustee to account to successor. If any trustee, overseer of the poor, shall remove from the township, be removed from office, resign or in any other way vacate his office, he shall immediately deliver over all books, papers and other things concerning his office to his successor, upon his appointment; in the event of his death, his executor or administrator shall, within forty days of his death, deliver over all things belonging to his office to the successor in office.

FAILURE TO SERVE.

(Acts 1865, p. 3, Sec. 6428.)

19. Failing to serve—Penalty. Any person elected or appointed township trustee, who shall fail to qualify and serve as such, shall pay the sum of five dollars, to be recovered as specified in the preceding section for the use therein named, and in like manner added to said fund, unless such person shall have previously served as such trustee.

NEGLECTING DUTIES.

(Acts 1865, p. 3, Sec. 6427.)

20. Neglecting duties. If a trustee shall fail to discharge any of the duties of his office relative to the schools, any person may maintain an action against him for every such offense, in the name of the state of Indiana, and may recover, for the use of the common school fund, any sum not exceeding ten dollars; which sum, when collected, shall be paid into the county treasury, and added by the county auditor to said fund, and reported accordingly.

DELIVERY OF MONEY AND BOOKS TO SUCCESSOR.

(Acts 1859, p. 220, Sec. 9575.)

21. Required to account to successor. The trustee shall at the expiration of his term, deliver to his successor all moneys, books and papers belonging to his township.

TOWNSHIP TRUSTEES—RECORDS—DUTY AS TO REVENUE.

(Acts 1865, p. 3, Sec. 6408.)

22. Records to be kept by trustee. The trustees shall keep a record of their proceedings relative to the schools, including all orders and allowances on account thereof, keeping a separate account of receipts and disbursement of the special school and the tuition funds. State tuition revenue shall not be expended for any other purpose, nor even for tuition purposes in advance of its apportionment.

Note: Contracts may be made in anticipation of school revenues, except state revenue for tuition. *Harney v. Wooden*, 30 Ind. 178; *Zartman v. State*, 109 Ind. 360.

NOTICE OF DAYS FOR BUSINESS.

(Acts 1875, p. 162, Sec. 9587.)

23. Days for business—Notice of. The trustee shall designate certain days in each week or month, as may be required, in which he will attend to the business of his township, and cause notice thereof to be given to the inhabitants of such township; and all contracts and auditing and payment of claims, shall be made only on such designated days.

SATURDAY CLOSING AND HOLIDAYS.

(Acts 1907, p. 691, Sec. 9627.)

24. Saturday half holidays—County Seats 100,000. In counties containing county seat of 100,000 or more population according to the last preceding United States census, on all legal holidays, and from the first Saturday in June to the last Saturday in October, from noon of all Saturdays, it shall be lawful for all public officers to close their doors for business.

TOWNSHIP TRUSTEES—DUTIES.

(Acts 1859, p. 220, Sec. 9565-9566.)

25. Duties of trustee, by virtue of his office—Other duties—May administer necessary oaths. The ex-officio duties of the township trustee are: Inspector of elections, overseer of the poor, and fence viewer.

His duties as township trustee in part are:

To keep a true record of his official proceedings in a book to be provided for that purpose.

To receive all moneys belonging to the township, and pay the same out according to law, as right and justice shall require.

To see to a proper application of all moneys belonging to the township for road, school or other purposes, and perform all the duties heretofore required of the township trustee, clerk and treasurer under the school acts.

To have the care and management of all property, real and personal, belonging to the township, and to superintend all the interests thereof.

To have power to administer oaths where necessary, in the discharge of the duties of his office.

RECORD OF FINANCES.

(Acts 1899, p. 150, Sec. 9596.)

26. Must keep a financial record. Township trustees shall procure and keep a book to be known as the Financial Record. In this book he is required to keep an itemized and accurate account of the affairs of his township, charging himself with each sum of money when and as received, showing the source, date, from whom received and the account to which it shall be credited.

Likewise he shall credit himself with all moneys when and as paid out, showing when, on what account, to whom and out of what fund paid.

Note: Such book shall be a public record.

APPEALS FROM TOWNSHIP TRUSTEES.

(Acts 1865, p. 3, Sec. 6667.)

27. In school matters to the county superintendent. Appeals shall be allowed from decisions of the township trustee in school matters to the county superintendent, who shall promptly decide according to the rules governing appeals from justices of the peace to circuit courts, so far as applicable.

His (superintendent) decisions of all local questions, concerning any school matter, shall be final.

RESIGNATION.

(Acts 1 R. S. 1852, Sec. 9141.)

28. When made, to be filed with auditor. If a township trustee desires to resign such office, he shall file with the county auditor his written resignation.

(Section 9569.)

29. Vacancy in office—How filled. In case of a vacancy, in vacation of the commissioners' court, the auditor shall appoint a person to fill the same.

During term time, the board of county commissioners shall fill such vacancy. All appointments are to cover the unexpired term.

DOCKET AND OTHER FEES.

(Acts 1903, p. 177, Sec. 9570.)

30. Required to be paid to trustee quarterly. Quarterly, viz.; on March 31, June 30, September 30 and December 31, of each year, each township trustee shall receive from the justices of the peace in his township all docket fees taxed and collected by such justices during each quarter, and shall enter same in his township fund.

In townships having therein a city of not less than 45,000 and not more than 60,000 population, all justice's fees including docket fees must be paid to the trustee quarterly.

Note: A portion of the language of the above act, as published in the Acts of 1903, and in Burns' R. S. 1914, is garbled so as to be meaningless. In the Enrolled Act, the language is:

"And in all townships in the State having therein a city of not less than 45,000, and not more than 60,000 population * * *. Said Trustees shall quarterly * * * receive from Justices of the Peace all fees taxed and collected by said justices during such quarter, and shall enter the same in the general fund of said township."

In the later edition of Burns' R. S. the mistake is corrected.

(Acts 1903, p. 177, Sec. 9570.)

31. Trustees must examine justices' dockets, quarterly. Under this section the trustee is required to examine and settle all accounts and demands against his township. The dockets of all justices within his township are thus required to be examined by the trustee.

FIRE ESCAPES.

(Acts 1909, p. 302, Sec. 3841-3847 b.)

32. When trustee acts as fire chief. All school buildings and public buildings must be provided with proper means of escape in case of fire.

Fire chiefs of cities are required to see that the law is obeyed in that regard. Section 3847b provides that the trustee shall perform the duties required of fire chiefs, in places that have no fire chief.

PENALTIES.

(Acts 1905, p. 584, Sec. 2284.)

33. Penalty for. A trustee failing to account to his successor, or failing to pay over to his successor in office all moneys of every description, remaining in his hands at the expiration of the trustee's term, shall be deemed guilty of embezzlement, subject on conviction to a fine not exceeding \$1,000, and five years' imprisonment in the State prison.

DIVERSION OF FUNDS.

(Acts 1905, p. 584, Sec. 2292.)

34. Penalty for. Any trustee who knowingly diverts, appropriates or applies any funds, or a part of any fund, or money borrowed on bond, to any other use than that for which it was raised, appropriated or borrowed, is deemed guilty of embezzlement and the penalty on conviction is a fine, imprisonment in the State prison and disfranchisement.

EXTORTION AND OFFICIAL NEGLIGENCE.

(Acts 1905, p. 584, Sec. 2389.)

35. Penalty for. Any public officer who demands or receives any fee or reward, other than that which is allowed by law, for doing his official duty, or charges, asks or receives a greater fee than is allowed by law, or requires any division of fees of a deputy appointed by him, or fails to perform any duty in the manner and within the time prescribed by law, is subject, upon conviction, to a fine and imprisonment in jail for a first offense and State prison and disfranchisement for a second.

FAILURE TO PERFORM DUTY—PENALTY.

(Acts 1859, p. 220, Sec. 9581.)

36. Penalty for. Should any person, elected or appointed to the office of township trustee, after having accepted such office, fail to perform any duty required by law, such person so failing shall forfeit and pay to such township any sum not exceeding \$100, to be recovered in a civil action in the name of the township, before any court having competent jurisdiction.

INTOXICATED OFFICER.

(Acts 1905, p. 584, Sec. 2419.)

37. Penalty for intoxication during business hours. Whoever, holding an office under the Constitution and laws of this State, becomes, or is intoxicated during the business hours of his office, shall, on conviction, be fined not less than \$10 nor more than \$100, to which may be added imprisonment in the county jail not more than ten days; and for the second offense he may be deprived of his office by the judgment of the proper circuit court.

UNLAWFUL INTEREST IN PUBLIC CONTRACTS.

(Acts 1905, p. 584, Sec. 2423.)

38. Penalty for. A township trustee who shall be interested in any contract for the construction of a schoolhouse, bridge or public building, or work of any kind erected or built for the use of a township, or who shall bargain for or receive any percentage, draw-back, premium or profits, or money, on any contract, or making any appointment wherein the township is concerned, is subject, upon conviction, to fine, imprisonment in the State prison and disfranchisement.

REFUSAL TO PAY JUST CLAIMS.

(Acts 1905, p. 584, Sec. 2424.)

39. Penalty for. If any township trustee unlawfully refuses to pay a just claim, or demand, against any fund of the township, when the money belonging to such fund is in his hands, he is subject, upon conviction, to a fine not less than \$10 nor more than \$50.

FRAUD BY OFFICER—ELECTIONS.

(Acts 1881, S. p. 174, Sec. 2571.)

40. Penalty for. Whoever being a township trustee, inspector, judge or clerk of election takes out of the ballot box any ballot legally deposited therein, with intent to destroy or substituting another in its place, with intent to prevent the same from being counted; or who knowingly enters upon the poll books the name of any person who has not legally voted at such election; or intentionally tallies any vote to any candidate not voted for by such ballot, or permits any of these to be done, is subject, upon conviction to fine, imprisonment and disfranchisement.

ALTERING RETURNS—ELECTIONS.

(Acts 1881, S. p. 174, Sec. 2572.)

41. Penalty for. Any township trustee, inspector, or any person acting for them, while forming a board of canvassers, who shall, with intent to defraud, alter any election return, as made by the election board of any voting precinct, either by increasing the vote of any candidate, or reducing the same; or shall intentionally destroy, mis-

place or lose any poll book or tally sheet, or who shall consent or permit the clerk of the court, to make such change, is subject upon conviction, to a fine, imprisonment in the State prison and disfranchisement.

REFUSING TO RECEIVE VOTE.

(Acts 1881, S. p. 174, Sec. 2573.)

42. Penalty for. Whoever being an inspector or judge of any election, knowingly, wilfully or corruptly, refuses or neglects to receive the vote of any legal voter at any election, within this State, is subject, upon conviction, to a fine, disfranchisement and rendered incapable of holding any office of trust and profit for any determinate period.

PERSUADING VOTER.

(Acts 1881, S. p. 174, Sec. 2574.)

43. Penalty for. Whoever being an inspector, judge or clerk of an election, attempts to induce, by persuasion, menace, reward, or promise of same, any elector to vote for any person, shall be subject to a fine of \$10 to \$100.

OFFICER OPENING OR MARKING TICKET.

(Acts 1881, S. p. 174, Sec. 3575.)

44. Penalty for. Whoever being a judge, inspector, clerk or other officer of an election, opens or marks, by folding or otherwise, any ticket presented by an elector, or suffers it to be done by another, before such ticket is deposited in the ballot box, shall be fined, disfranchised and rendered incapable of holding any office of trust and profit for any determinate period.

FALSE CLAIMS.

(Acts 1905, p. 584, Sec. 2586.)

45. Penalty for presenting, for payment. Whoever, knowing the same to be false or fraudulent, makes out or presents for payment or certifies as correct to * * * the trustee or accounting officer of any civil or school township, any false or fraudulent claim, bill, note, bond, account or other evidence of indebtedness, for purpose of procuring payment thereof, upon conviction shall be imprisoned in the State prison two to fourteen years, and fined \$10 to \$1,000, and whoever receives payment of such claim, knowing the same to be false and fraudulent, shall be punished likewise.

DOG TAX—PENALTY AGAINST OFFICER.

(Acts 1897, p. 178, Sec. 3263.)

46. Penalty for failure to perform duty. Any township trustee or township assessor who shall fail to perform his duty relating to collection of dog tax or who shall fail to report delinquent dog owners, shall be liable to a fine of \$10 to \$20.

DOGS—FALSE STATEMENTS.

(Acts 1897, p. 178, Sec. 3264.)

47. Penalty for false statement. Any false statement made to a township assessor or township trustee relative to number, sex or age of a dog by a person owning, keeping or harboring a dog subjects such person to a fine not exceeding \$100.

FAILURE TO ACCOUNT—PENALTY.

(Acts 1905, p. 584, Sec. 2283.)

48. Penalty. Any trustee who fraudulently fails or refuses, at any time during the term for which he was elected or appointed, when legally required to so do by the proper person or authority, to account for, deliver and pay over to such person or persons as may be lawfully entitled to receive the same, all moneys, choses in action, or other property which may come into his hands by virtue of his office, is deemed guilty of embezzlement, and the penalty on conviction is a fine, not exceeding \$1,000, and imprisonment in State prison and disfranchisement.

ADVISORY BOARD.

(Acts 1899, p. 15, Sec. 9590.)

49. Beginning of term. The term of office of the members of the advisory board shall be for two years from the day following their first election and until their successors are elected and qualified, and the term of office shall thereafter be for the term of four years from the day following their election and until their successors are elected and qualified.

(Acts 1899, p. 150, Sec. 9590.)

50. Election of—General Duties—Organization—Quorum. At the time of electing township trustees, the voters shall elect an advisory board for the township. By inference the provisions of the amending act 1911, Sec. 6983 Burns' R. S., which extended the election of township trustees and township assessors from November, 1912, to November, 1914, also extended the election of the advisory boards.

The advisory board consists of three members and vacancies are filled by the remaining members.

This board is required to assemble on the first Tuesday of September each year, in annual session, at some convenient place in the township, and two members shall constitute a quorum.

At such meeting the board shall consider the various estimates of township expenditures proposed by the township trustee, and shall have power to concur in such estimates, in whole or part; or to reject, in whole or part.

Any existing indebtedness of the township need not be paid until due.

When the board shall have determined upon the estimates and amounts for which taxes should be levied upon the property and polls within the township for the ensuing year, it shall then determine and

fix the rates of taxation, upon such property and polls as to the estimated purposes, severally.

The rates so determined by the board shall be certified to the county auditor, who shall place the same upon the tax duplicate, and the same collected and enforced by law.

One of the members shall be elected chairman and another member as secretary of the board.

The secretary shall record, in a book to be furnished by the trustee, all the proceedings in full of any meeting, under the direction of the board, which shall be signed before the board adjourns.

Such book shall be a part of the records of the township, and known as "The record of the Advisory Board of _____ township" and it shall remain in the custody of the chairman of the board.

The board has the power to adjourn from day to day till its business is completed.

Note: No action of the members of the advisory board has any force in law except the action be taken at a meeting of the board when a quorum is present and a record of such action be made and entered upon the advisory board record and signed by the members before the meeting adjourns.

(Acts 1915, p. 358.)

50a. Taxation—Townships—Tax levy. Each advisory board in the several townships of the State shall, at the annual September meeting of the board, levy a tax for township funds upon all the taxable property within the township, including the taxable property in cities and incorporated towns within the boundaries of the township.

IMPROVEMENT AND REPAIR OF HIGHWAYS BY USE OF ROAD TAX.

(Acts 1913, p. 873, Sec. 7780.)

51. Must be let to the lowest responsible bidder—Notices. Under Sec. 20 of the new highway law, 1913, the township trustee may let to the lowest responsible bidder the improvement or repair of highways and bridges, or any part thereof, in his township, under regulations prescribed by him. Notice of the time and place of receiving bids must be posted in three of the most public places in the township.

Note: Such contracts must be let upon notice and bids. *Moss v. Sugar Ridge Tp.*, 161 Ind. 417.

Note: It is believed that the 1913 act, p. 873, Section 51, this book, governs as to the expenditures of road taxes. By Section 1347 Burns' R. S. it is provided, in case there are not published in said county newspapers representing two political parties casting votes at the last preceding general election, then in such case one of such notices or reports, shall be published in an independent newspaper.

GENERAL SUGGESTIONS.

52. General suggestions. The matter of township supplies, both civil and school, is one of the greatest importance. In the aggregate, the expenditures of the township trustees of the State for supplies of

different kinds amounts to a very large sum annually. To the end that there may be no unnecessary purchases it is the duty of each trustee to see that there is no needless waste and that all articles belonging to the township are properly used and protected. At the close of the schools, teachers should be required in their report to make an itemized and detailed statement as to the amount and condition of all property, furniture and materials under their supervision and the probable needs for the next school term. Road supervisors, drivers of school wagons and school janitors should be required to properly protect all property in their charge or under their supervision. By reports from all persons using township property and by personal inspection and inquiry, the trustee will be able to make an intelligent estimate of the township needs.

53. School supplies—Estimate and classification. If the trustee desires to purchase any school furniture, wagons, fixtures, maps, charts or other school supplies (excepting fuel and literary periodicals, as may be authorized by the advisory board) he must make an estimate of the kinds and amounts, itemized particularly and properly classified, to be used by bidders upon the giving of public notice. The only exception made by the statute is as to fuel and literary periodicals; all other supplies must be purchased after notice and bids. (Section 9598, Burns' R. S. 1914.)

54. Other supplies—Road machinery—Bridge materials, etc. A like course should be followed by the trustee in the purchase of all other supplies and materials for township use wherever practicable. Especially is this required in buying road machinery and tools of all kinds and bridge and culvert materials. It may also be advisable in some instances to buy gravel, stone or other road-making materials by notice and competitive bidding.

55. Plans and specifications required. If the trustee finds it necessary to erect a new schoolhouse, he must procure suitable plans and specifications therefor to be used by the bidders in bidding and in the construction of such house. The plans and specifications, as to sanitary arrangements, must be in accordance with the rules of the state board of health.

Note: See Sec. 248 this book.

56. Bids for repair work on schoolhouses. If it is necessary to make repairs on or about schoolhouses, other than current or incidental repairs, the trustee must make an itemized statement of the nature and character of the work for the use of bidders. The current and incidental repairs which the trustee is authorized to make without notice and bids relate to such matters as broken windows, doors, heating apparatus and other things likely to occur from day to day and requiring immediate repair.

57. Plans and specifications to be procured. When bridges are to be constructed or repaired in a township in any year the trustee, under the township act of 1899, must make for the use of bidders a sufficient schedule and such specifications of such work as may be necessary.

58. The \$100 law, as to payment for bridges. Again, is mention made in reference to the Act of 1913, p. 609, which provides that all

bridges erected or repaired, when the cost shall not exceed \$100, shall be paid by the township trustee from the township road fund.

60. Requirements as to letting of contracts—Notice how given. Under the township act of 1899 it is provided that all contracts shall be let after notice by posting for three weeks in five of the most public places in the township and also at or near the door of each postoffice therein, stating briefly the buildings, repairs or supplies sought to be let and when and where bids will be received and opened. If the contemplated expenditures in any class (buildings being one class, repairs a class, supplies a class, and so on) shall be \$500 or more, in addition to the posting there must be a publication of the notice one time in two leading newspapers of the county representing the two political parties casting the highest number of votes in such county at the last preceding general election. If there is a newspaper published in the township one of such notices must be published in it.

Note: It is believed that the 1913 act, Section 59, this book, governs as to the expenditure of road taxes. By Section 1347 Burns' R. S. it is provided, in case there are not published in said county newspapers representing two political parties casting votes at the last preceding general election, then in such case one of such notices or reports, shall be published in an independent newspaper.

(Section 1346a.)

61. May publish in a daily or weekly newspaper. Under another act, 1913, p. 761, it is provided that the trustee may lawfully make such publications in either a daily or weekly newspaper.

BIDS, RECEIVING AND ACTION ON.

62. Advisory board must be present when trustee opens bids—Written bids—Opened publicly. All bids must be in writing and must be opened and read publicly at the time and place fixed in the notice. The trustee may take time to examine and satisfy himself as to which is the lowest and best bid and must advise with the advisory board thereon. The advisory board must be present at the letting and has authority to reject any and all bids. When action has been taken, the trustee must endorse on the bids whether rejected or accepted and must preserve the bids in his office.

BIDS, HOW RECEIVED.

(Acts 1913, p. 650, Sec. 5896a.)

63. Bids need not be submitted earlier than time of meeting. No officer authorized by law to let contracts for public work has authority to require any bidder to submit his bid at any time earlier than the open meeting at which it is to be received. All such meetings for receiving bids shall be open to the public and all bidders shall be entitled to attend.

All contracts for public work let contrary to these provisions shall be void.

WHEN CONTRACT IS VOID.

64. When contract is void. Any contract made in violation of the township act of 1899 (Advisory Board Act), and its amendments is null and void.

65. Contracts how let. When a bid is accepted a proper contract in writing, signed by the trustee and the successful bidder, must be entered into for such building, bridge construction, repairs or supplies, as the case may be. All the work or supplies in any one class must be included and let in a single contract.

66. Noncollusion affidavit and bond. All bids must contain the statement and affidavit set out in "Form 9" prescribed by the state board of accounts; and when a contract has been entered into the trustee must require the bidder to give bond, with security to be approved by him, for the faithful execution of such contract.

67. Annual January financial report and settlement—When and how made. The trustee's annual report and settlement is provided for by the township act of 1899, as amended in 1901. Briefly stated, the requirements as to the report are as follows:

The report must be presented to the advisory board at an annual meeting to be held on the first Tuesday after first Monday in January. Where, however, the trustee's term expires before that date, or he shall die or resign, then he or his administrator, as the case may be, shall at once make final settlement with the board.

It must be a complete report of all receipts and expenditures for the preceding calendar year, with the balance to the credit of each fund.

If the trustee has any money from any source on his hands or under his control which is not included in any particular fund, as shown by his report, all facts concerning such money must be stated.

Each item of expenditure must be accompanied by a verified voucher, signed by the person receiving the money. The form of this voucher has been prescribed by the state board of accounts. The trustee is empowered to administer the oath to the person signing the voucher.

The report must be verified by the oath of the trustee showing that the sums with which he is charged in the report are all the sums received by him; that the various items of expenditure credited have been fully paid in the sums stated, without any agreement that any portion thereof shall be retained by or repaid to him or to any other person; and that such trustee has received no money nor article of value in consideration of any contract made by him as such trustee.

ALLOWANCE BY ADVISORY BOARD.

68. Allowance of per diem to trustee. The trustee who receives per diem and not salary must file with the advisory board at its annual meeting in January an itemized statement, verified by his oath, of his services as trustee and such board shall fix and allow the number of days for which the trustee is entitled to be paid, and he is entitled to no other compensation for his service as trustee.

Note: For law as to clerk hire, expenses and office rent, see Section 73, this book.

DUTY OF ADVISORY BOARD.

69. Duties as to trustee's annual January report. The advisory board shall consider the trustee's report when it is presented to such board and approve it in whole or in part.

Any sum appropriated and remaining in the hands of the trustee, unexpended, and for which no liability exists against the township, must be deemed and credited in favor of the fund for which it was appropriated, and must be considered in the ensuing levy.

The expenditure of any fund, in whole or in part, to any account for which it was not appropriated by the advisory board must be deemed by such board as a balance of such fund unexpended and still in the hands of the trustee, for which he is liable on his bond.

Any member of the advisory board may administer oaths, and the board may send for persons, books and papers, if necessary, in the examination of the trustee's report; and when the examination is closed the board must enter of record its action on the report, specifically stating such parts and items as may be altered or disallowed.

The trustee's report shall remain under the control of the advisory board and in the custody of the chairman of such board and may be inspected at any time by any taxpayer of the township. The vouchers accompanying the report, however, must be filed with the county auditor.

COPY OF REPORT TO AUDITOR—TIME OF FILING AND PENALTY.

70. Copy of report to auditor—Penalty—Vouchers. After the annual settlement has been made, the trustee must, within ten days thereafter, file a copy of his report as adopted by the advisory board, with the accompanying vouchers, in the office of the county auditor, to be preserved. If the copy is not so filed within ten days the trustee is subject to a forfeiture of \$5.00 for each day's delay, to be collected by the advisory board for the benefit of the township.

AUDITOR'S DUTY TO EXAMINE TRUSTEE'S REPORT.

(Section 9597.)

71. Auditor's duties—Examination within 10 days. The auditor must examine the copy of the report filed with him and within ten days after such filing must report to the advisory board the result of such examination, including his finding as to the accuracy of the report.

PUBLICATION OF REPORT—PENALTY FOR FAILURE.

72. Newspaper publication within four weeks. Under an act of 1907 (Section 9573, Rev. Stat. 1914), the township trustee, within four weeks from the time of filing his annual report, must cause the receipts and expenditures by items, as they appear in such report, to be given newspaper publication as in said section provided. If the trustee fails to make such publication the county auditor shall cause it to be done. Each newspaper publishing the same shall be entitled to five cents for each item of such receipts and expenditures, to be paid out of the township fund and not more than one item shall be printed in

one line. For a failure to make publication of the report a fine of \$25.00 is provided.

Townships having a population of 100,000 inhabitants or more are excepted from the above requirements and must cause publication to be made under Section 9597, Burns' R. S. 1914.

Note: As to publication see Sections 60 and 61, this book.

ESTIMATES OF EXPENDITURES.

(Acts 1915, p. 131, amending Sec. 9593.)

73. Trustee must attend all meetings—Estimates. The trustee shall attend all of the meetings of the advisory board, and at the annual meeting thereof, after the board shall have organized, he shall present a detailed and itemized statement in writing of his estimated expenditures for which appropriations are asked, specifying the number of teachers necessarily employed, their salaries respectively, the number of days deemed necessary for the discharge of the duties of his office, and the days of the week or month when they can be most advantageously performed, the extent of needed bridge and highway repairs, an accurate, itemized list of all the property and supplies on hand, whether in use or in store, for road, school and other purposes and estimated value thereof, the items of school supplies necessary for each school, the condition of pauperism in the township, including the names of such persons as have received public aid, since the taking effect of this act, and since the last annual meeting of the board, with the respective amount received by each person. And also the items, severally to be charged against the township funds, including salaries, clerk hire when same is necessary, stationery, printing and records, and supplies to be furnished to the justices of the township, the trustee's compensation, and his actual expense to be incurred in the transacting of township business, and his office rent, where an office is authorized by such advisory board, and any other items of expense payable from said fund; and he shall submit to such inquiries concerning the expenditures of his office as the board, or the taxpayers present, may deem proper to make. The advisory board shall have full power to require any estimate, not sufficiently itemized, to be so itemized by the trustee, and to appropriate for any purpose a sum not greater than that estimated in the item therefor, except by the unanimous vote of the board, and not otherwise, an appropriation may be made for an item not contained in any estimate, or for a greater amount than that named in any item of an estimate: Provided, further, That all items of expense herein enumerated shall be paid from the proper funds of the township: and Provided, That in townships containing a population of less than 5,000 inhabitants, no clerk hire shall be allowed or paid; that in such townships the advisory board may authorize the trustee to pay as office rent a sum not to exceed \$60.00 per annum, and such trustee may, if authorized by the board, keep his office in his residence or his own property, and pay to himself the rent therefor; that in such townships, the advisory board may authorize the trustee to pay his actual expenses in transacting his official business, including stationery, printing and records, and may authorize the trustee to use his own prop-

erty, as means of convenience in transacting such business, but the total expenses to be so allowed and paid, other than office rent, shall not exceed \$100.00 per year in such townships; that in townships containing a population of 5,000 and less than 10,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed \$100.00 per year; for office rent a sum not to exceed \$90.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, and may authorize the trustee to use his own property as means of convenience in transacting such business, but the total expenses to be so allowed and paid, other than office rent, shall not exceed \$200.00 per year; and Provided, That in townships containing 10,000 and less than 15,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed \$250.00 per year; for office rent a sum not to exceed \$120.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed \$250.00 per year: and Provided, That in townships containing 15,000 and less than 20,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed \$450.00 per year; for office rent a sum not to exceed \$120.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed \$300.00 per year, and Provided, That in townships containing 20,000 and less than 30,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed \$600.00 per year; for office rent a sum not to exceed \$180.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed \$350 per year and Provided, That in townships containing 30,000 and less than 40,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed \$900.00 per year; for office rent a sum not to exceed \$240.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed \$500.00 per year, and Provided, That in townships containing 40,000 and less than 100,000 inhabitants, the advisory board may authorize the trustee to pay, if the board deems necessary and proper, for clerk hire a sum not to exceed \$1,200.00 per year; for office rent a sum not to exceed \$300.00 per year; for actual expenses in transacting the business of the office, including stationery, printing and records, a sum not to exceed \$600.00 per year; the inhabitants of all such townships to be determined by the last preceding United States census. All appropriations for clerk hire, for office rent, and for actual expenses in transacting the business of the office of trustee, shall be made at the annual September meeting and at no other time. In any case, before the trustee shall draw his warrant for any money to be paid out by reason of the items of expense, including clerk hire and office rent, authorized by this act, he shall require to be filed with him, as trustee, an itemized voucher

of such expense, clerk hire or office rent, properly subscribed and sworn to.

No trustee shall have credit for any money paid by him, except he shall show a receipt therefor for each item thereof from the person to whom such payment was made.

Sec. 2. This act shall in no way affect any pending litigation.

Note: Estimates for road purposes and levies therefor are now made on or before the first Tuesday in June. See Section 314, this book.

NOTICE OF ANNUAL MEETING.

(Acts 1899, p. 150, Sec. 9592.)

74. Notice advisory board meeting—Legal rates for same. Notice of the annual meeting of the advisory board must be given by the trustee at least 30 and not more than 40 days before it is to be held by posting at or near the door of all postoffices in the township and by publishing, one insertion, during the first week in August, in each of the two leading newspapers published within the county, a statement of the several estimates and amounts of the proposed annual expenditures; the rates of taxation proposed for levy against the property to be expended for the ensuing year, for the following funds:

1. Township.
2. Local tuition.
3. Special school.
4. Road.
5. Additional road.
6. Library.
7. Poor.
8. Other items.

The act limits the cost of such publication at \$2 to any one newspaper in any one year, and the posting at \$1.50.

The trustee is required to furnish within this period to each member of the advisory board a statement of such estimates and amounts. He shall also procure and lay before the board, at its annual meeting, the assessed valuation of the taxable property, together with the number of polls, of his township.

RIGHT OF TAXPAYER TO ATTEND MEETING.

(Acts 1899, p. 150, Sec. 9591.)

75. Meetings of advisory board—Taxpayer's right to be present. Any taxpayer has the right to appear and be heard as to any matter being considered by the advisory board.

TOWNSHIP TRUSTEE—ADVISORY BOARDS—TRANSFER OF FUNDS.

(Acts 1913, p. 551.)

76. When surplus road funds transferred to special school fund. If it appears to the advisory board of any township in the State of Indiana, at the next annual September meeting of such board, that

there is a surplus of the road funds of such township that will not be needed for road purposes then such advisory board may, by a unanimous vote, pass a resolution and spread the same upon the minutes of such board, directing the trustee of such township to transfer all or any specified portion of such surplus road fund, to the special school fund of such township, and when any such advisory board shall make any such order it shall be the duty of the trustee to transfer said fund in compliance to such order, which fund so transferred shall become a part of the special school fund of such township and be used for special school purposes.

Note: It is believed that such transfer may be made at any annual meeting.

SPECIAL MEETINGS—LOANS.

(Acts 1913, p. 276, Sec. 9595.)

77. Only power to create debt for joint school building—Emergency expenditures. Upon a special call of the township trustee, or the chairman of the advisory board or a majority of the members of said board, given in writing to each member thereof, stating the time, place and purpose of the meeting, said board may, if a quorum be present, by consent of a majority of all the members present, determine whether an emergency exists for the expenditure of any sums not included in the existing estimates and levy. In the event that such an emergency is found to exist said board may authorize by special order entered and signed upon the record, the trustee to borrow a sum of money to be named sufficient to meet such emergency; and at the next annual session of the board a levy shall be made to the credit of the fund for which such expenditure is made to cover and pay the debt so created: Provided, however, That if at any annual or special meeting of said board it shall be found indispensably necessary to provide for the construction of a school building, the cost of which building or the proportionate cost thereof if the same be a joint graded high school building will be in excess of the sum available therefor out of any annual levy, then in that event such board may authorize such trustee to issue township warrants or bonds to pay for such building, or the proportionate cost thereof, such warrants or bonds to run for a period of not exceeding fifteen (15) years; and to bear not exceeding six per centum per annum, and to be sold for not less than par; the township trustee, before issuing such warrants or bonds, shall advertise that bonds are to be sold in not less than one issue a week for three weeks, in one paper of general circulation in the county and one paper of general circulation in the State capital, setting forth the amount of bonds offered, the denomination, the period to run, rate of interest and the date, place and hour of selling. The township advisory board shall attend the sale of bonds and shall concur therein before such bonds are sold. The board shall annually levy sufficient taxes to pay at least one-fifteenth of such warrants or bonds, with interest, each year, and the trustee shall apply such annual tax to the payment of such warrants or bonds each year. In no event shall a debt of the township be created except by the advisory board of such township, and

in the manner herein specified, and any payment of any debt not so authorized from the public funds of such township shall be recoverable upon the bond of the trustee in a suit, which it is hereby made the duty of said board to institute and prosecute in the name of the State, for the use of said township. And said board is hereby empowered to appropriate, and the township trustee shall pay out of the township funds a reasonable sum for attorney's fees for such purpose. And if the board, on the written demand of any taxpayer, fails for thirty (30) days to bring suit, then such or any other taxpayer may bring the same, in the name of the State, for the use of the township: Provided, however, nothing contained herein shall affect any pending litigation.

Note: Trustees have no power to contract beyond the funds available from present tax levies, unless the funds are raised by virtue of this section. *Mitcheltree Twp. v. Baker*, 53 Ind. App. 472.

(Acts 1913, p. 487.)

78. Act 1913 inoperative.

Note: By the amending act 1913, approved March 10, 1913, gave the Advisory Board power at special meetings to authorize the Township Trustee to borrow money to purchase road machinery, dredges or machinery for hoisting road material, or other township business.

This act is believed to be inoperative for the reason that the act amended 1913, p. 276, was approved on March 6, four days sooner, and carried an emergency clause.

TAXATION—TUITION FUND, SUPPLEMENTARY.

(Acts 1903, p. 409, Sec. 6443.)

79. Supplementary tuition fund—Limitation—Application. The school trustees of the several townships, towns and cities shall have power to levy annually a tax not exceeding fifty cents on each one hundred dollars of taxable property and twenty-five cents on each taxable poll, which tax shall be assessed and collected as the taxes of the State and county revenues are assessed and collected, and the revenues arising from such tax levy shall constitute a supplementary tuition fund, to extend the terms of school in said townships, towns and cities after the tuition fund apportioned to such townships, towns and cities from the State tuition revenues shall be exhausted: Provided, however, That should there be remaining in the tuition fund of any township, town or city levying such tax at the close of any school year any unexpended balances of such supplementary tuition fund assessed and collected for use in such school year, or previous years, equal to or exceeding in amount one cent upon each one hundred dollars of taxable property in said township, town or city, then it shall be the duty of the county auditor to take notice of the same, and at the time when the trustee or trustees of such school corporation shall make the annual levy for such tax such trustee or trustees shall make, under oath, an estimate of the amount of supplementary tuition fund that will be required to meet the actual expenses of the schools for the next

school year, and from such estimate said auditor shall deduct the unexpended balance of such fund in such trustee or trustees' hands on the first Monday of July, and the said trustee or trustees shall make a levy not larger than shall be sufficient to produce a supplemental revenue equal to the amount remaining of such sworn estimate after such unexpended balance shall have been deducted therefrom.

TAXATION—LOCAL TAX, HOW APPLIED.

(Acts 1895, p. 153, Sec. 6444.)

80. Local tuition tax to be applied within township. The funds arising from tax shall be under the charge and control of the same officers, secured by the same guarantees, subject to the same rules and regulations, and applied and expended in the same manner as funds arising from taxation for common school purposes by the laws of this State: Provided, That the funds assessed and collected in any school township, school town or school city shall be applied and expended in the same school township, town or city in which such funds shall have been assessed and collected. (R. S. 1914, Sec. 6444.)

Note: Anticipating. This revenue is not forbidden to be anticipated, as is the State's tuition revenue.—Harney v. Wooden, 30 Ind. 178.

SPECIAL TAX. (SANITARY SCHOOLS.)

(Section 6616d.)

81. Limitation of rate—Construction sanitary school house. For the construction of sanitary school buildings by township trustees, and to carry out certain hygienic and sanitary requirements, the school trustee was empowered by the Act of 1911 p. 118 to levy a tax not to exceed 5 cents on the \$100 to be added to the special school fund, to be used only for building and furnishing of such school houses, such levy not to be made unless plainly necessary. The limit of the levy was increased to 15 cents on the \$100 by the Amendment of 1913 at p. 71.

TAXATION—SPECIAL SCHOOL TAX.

(Acts 1905, p. 491, Sec. 6441.)

82. Special school tax—When used to pay teachers. The trustees of the several townships, towns and cities, shall have the power to levy a special tax, in their respective townships, towns or cities, for the construction, renting or repairing of school houses, providing furniture, school apparatus, and fuel therefor, and for the payment of other necessary expenses of the school, including tuition and teachers' salaries, whenever in any current year the tuition funds shall have been exhausted; but no tax shall exceed the sum of fifty cents on each one hundred dollars worth of taxable property, and one dollar (\$1.00) on each poll, in any one year, and the income from said tax shall be designated the special school revenue.

SPECIAL SCHOOL FUND—TRANSFER TO TOWNSHIP FUND.

(Acts 1907, p. 340, Sec. 6446.)

83. Transfer of township fund to special school, when. Whenever a township shall have collected a special tax for the specific purpose of erecting or constructing a school building and the trustee having decided to abandon the erection thereof, it shall then be his duty to transfer such special fund to the township fund, upon the order of the advisory board of such township.

It shall then be lawful to use such fund for township expenditures.

SPECIAL TAX TO PAY DEBTS.

(Acts 1873, p. 209. Sec. 6445.)

84. Declaration of majority of voters of township. In all cases where there have been debts contracted by the township for the construction, repairing or completion of schoolhouses, or for furnishing same, and the special levy of taxes shall be insufficient to liquidate the debts so contracted by the trustee, it shall be lawful to levy an additional tax not to exceed 25 cents on \$100, on the taxable property of the township, in any one year, and for each and every year until said debts, so made and contracted as aforesaid shall be fully paid, satisfied and liquidated.

This additional levy shall only be made after the legal voters of the township shall have declared in favor thereof.

Note: No provision is made to obtain the necessary declaration of the legal voters. It is doubtful whether a levy made under this section could be enforced.—Editor.

CASH BOOK—DAILY BALANCES.

(Acts 1907, p. 391, Sec. 7522.)

85. Cash book—Must show daily balances. Every public officer who receives or disburses public funds must keep a cash book in which there shall be entered daily, by item, all receipts and disbursements of public funds, which cash book shall be daily balanced, showing funds on hand at the close of the day. Such book shall be a public record and open to public inspection.

TOWNSHIP BOARD OF FINANCE.

(Acts 1907, p. 391, Sec. 7530.)

86. Who composes the township Board of Finance—Powers. The advisory board of each township is the board of finance for the township, for both civil and school funds, and has advisory supervision for the safe keeping and deposit of all public money belonging thereto.

(Acts 1907, p. 391, Sec. 7531.)

87. Requirements of trustee—Reports to Secretary. Township trustees who receive or have on hand public funds subject to deposit, shall deposit the same in the depository selected by the board of finance, and shall file with the secretary of such finance board a verified statement of the funds deposited.

(Acts 1909, p. 182, Sec. 7532.)

88. Qualifications of a designated depository—Securities. No public funds shall be deposited in any bank, bank institution or trust company in this state unless such institution is subject by law to visitation and examination by the comptroller of currency of the United States through national bank examiners, or by the auditor of state through state examiners, and until such depository has presented to said board of finance a personal bond executed by not less than seven freeholders of the State as security for a sum equal to 60 per cent. of the maximum amount of funds to be held on deposit at any one time; or a surety company bond equal to 50 per cent of such deposit, to be approved by such board of finance.

(Acts 1909, p. 182, Sec. 7533.)

89. Kinds of securities required. Other form of securities for public depositories may be allowed in the way of any county bonds issued for the improvement of roads, other county bonds, bonds of the State or of the United States, being delivered to the board of finance for the full face value equal to one-half of the maximum amount to be deposited with such depository. Such boards shall determine the value and validity of such securities before accepting same.

A depository is allowed to deposit a portion of such bonds and make up the remainder of surety required by personal bond or a surety company bond.

(Acts 1909, p. 437, Sec. 7535.)

90. How proposals shall be invited. The Secretary of the Board of Finance is required to send by registered mail to each bank or trust company eligible to become depositories for the township, written invitations to submit proposals to receive public funds on deposit. Such invitation shall be sent 20 days prior to the meeting of the Board. This mailed notice is in lieu of the published notice as required by Sec. 14 of the Act of 1907. Special meetings of the Board of Finance may be held when necessary. The Board shall meet on the first Monday in January, biennially on odd years, and designate public depositories. See Sec. 7538, Burns' R. S.

PROPOSAL FOR FUNDS—INTEREST.

(Acts 1909, p. 438, Sec. 7536.)

91. Rates of interest to be paid by depository. Any eligible bank or trust company desiring such deposits shall file with the board of finance, on the day so fixed, its written proposal to receive a maximum sum of the public funds on deposit; agreeing to pay a rate of interest as follows:

- 2 per cent per annum on daily balances;
- 2½ per cent per annum on semi-annual time deposits;
- 3 per cent per annum on annual time deposits.

They are required to file the necessary bond, or securities, within five days after notice of the award.

All interest earned on such public deposits of the township trustee shall be applied to the tuition fund of such township.

MONTHLY STATEMENT—CHECKS.

(Acts 1907, p. 391, Sec. 7541.)

92. All checks must be officially signed by trustee. Section 20 of the public depository act requires that the interest on the public deposits shall be credited monthly by such depository, and a statement thereof be transmitted to the officer on the first day of the month for such preceding month.

All checks drawn on such depository shall be signed by the officer in his official capacity.

MORE THAN ONE DEPOSITORY—MAXIMUM TRANSFER.

(Acts 1913, p. 279, Sec. 7542.)

93. When more than one depository. More than one depository may be awarded deposits by the board of finance, but the award shall not exceed \$500,000 in any single depository.

In case there is no bank or trust company within the township which shall receive such deposits of funds on the required terms, then the funds may be deposited in one or more qualifying banks of the county which are most convenient, but there shall be no discrimination as between banks of equal convenience outside of the township. The trustee is required to deposit and maintain the balance in each depository as nearly as practicable in proportion to the maximum sum awarded to such depositories.

If any depository shall desire to relinquish its deposit; or if a designated bank shall increase its capital stock after its award, and shall file bonds or securities for additional deposits proportionate to such increase of capital, then the board of finance has the power and authority to readjust the awards, and to order the trustee to make proper transfer of funds.

TIME OF MAKING DEPOSITS.

(Acts 1911, p. 616, Sec. 7545.)

94a. Time when deposits shall be made. The funds collected or received by a township trustee must be deposited in a public depository, provided therefor, on or before the 1st and 15th days of each month.

No township trustee shall draw any check upon any such depository except in payment of a legal claim against his township, or school township.

FAILURE TO MAKE DEPOSIT—ILLEGAL DRAWING OF CHECK—PENALTY.

(Section 7545.)

94b. Failure to make deposit—Illegal drawing of check—Penalty. If any trustee fails to deposit the public funds coming into his hands in accordance with the statute, or draws any check contrary to the provisions of the statute, he is deemed guilty of embezzlement, and

on conviction is subject to a penalty of imprisonment in the state prison from one to twenty years and a fine not exceeding \$1,000, to which penalty is added removal from office and liability on his official bond for any loss or damage which may accrue.

DEPOSIT EXEMPTS TRUSTEE FROM LIABILITY.

(Acts 1907, p. 391, Sec. 7546.)

95. Trustee's exemption from liability. When public funds have been deposited as provided under the provisions of this law, the trustee and his bondsmen are exempted from liability by reason of the loss of such funds from failure, bankruptcy or any other act of the depository to the extent of the funds in the hands of such depository at the time of such failure or bankruptcy.

TRUSTEE'S ACCOUNTS—INSPECTION OF.

(Acts 1865, p. 3, Sec. 6429.)

96. Books subject to inspection, when and by whom. The books, papers and accounts of any trustee, relative to schools, shall at all times be subject to the inspection of the county superintendent, the county auditor, and the board of county commissioners of the proper county.

EXAMINATION OF TRUSTEE AND HIS BOOKS.

(Acts 1865, p. 3, Sec. 6430.)

97. Must produce books, on three days' notice. For the purpose of such inspection, such county superintendent, auditor, and board of county commissioners may, by subpoena, summon before them any trustee, and require the production of such books, papers and accounts, three days' notice of the time to appear and produce them being given.

CORRECTION OF ACCOUNTS.

(Acts 1865, p. 3, Sec. 6431.)

98. Books may be corrected—Removal for fraud. If any such books and accounts have been imperfectly kept, said board of commissioners may correct them, and, if fraud appear, shall remove the person guilty thereof.

COLLECTION OF TAXES—WHEN PAID TO TRUSTEE.

(Acts 1859, p. 220, Sec. 9576.)

99. Semi-annual payment of taxes collected—Road tax—In June. All township taxes are collected by the county treasurer as other taxes are collected, except the road tax, which is all paid at the first (May) installment, and distributed to the trustee by the treasurer after his June settlement with the auditor. All other taxes than the road tax are paid to the trustee by the county treasurer after each semi-annual settlement with the auditor.

PAYMENT OF SURPLUS OF SPECIAL TAXES.

(Acts 1897, p. 271, Sec. 9577.)

100. When to be applied to the township fund. Unexpended balances of special taxes to purchase gravel roads, or to aid railroads must be paid back to township trustees by the county treasurer and are applied to the township fund.

Note: This does not apply to surplus from gravel road construction funds. See Section 7729a Burns' R. S.; Section 101 of this book.

(Acts 1913, p. 941, Sec. 7729a.)

101. How surplus free gravel road tax may be used. However, in case there exists an insufficient amount to liquidate the indebtedness of any free gravel road in any township, under the provisions of an act 1913, p. 941, a surplus arising from another road constructed in the township, shall be transferred, by orders of the county commissioners, to a "General gravel road by taxation fund" and applied in payment of the insufficient roads account.

Note: See Section 100, this book, for disposition of surplus from gravel road purchase funds.

RECORDS AND BOOKS.

(Acts 1859, p. 220, Sec. 9579.)

102. Open at all times for public inspection. The records and other books of the township trustee shall always be open for public inspection.

(Acts 1909, p. 141, Sec. 7546i.)

103. State board of accounts examination of trustee's accounts. His books are subject to examination by the state board of accounts.

(Acts 1913, p. 154, Sec. 1347.)

104. Publication in newspapers—When may publish in independent newspaper. When trustees are required by law to publish notices and reports in a public newspaper, they are required to publish the same in two newspapers published in their respective counties, representing two political parties casting votes in such counties at the last preceding general election, one of which shall represent the party casting the highest number of votes at said election, if there be such newspapers published in the county. If there are not two papers representing such parties published in the county, then such notices or reports shall be published in an independent newspaper.

(Acts 1913, p. 761, Sec. 1346a.)

104a. May publish in daily or weekly newspaper. Act of 1913, provides that any legal notice, in township business, theretofore required to be published in a weekly newspaper, may thereafter be published in either a daily or weekly newspaper.

SUITS AGAINST TOWNSHIP.

(Acts 1859, p. 220, Sec. 9580.)

105. When trustees may employ an attorney—Litigation. In all suits against the township, process shall be served by copy on the township trustee, at least 10 days before the return day of such process.

The trustee is empowered to employ an attorney to defend any suit or proceeding in which the township may be interested.

TOWNSHIP BUSINESS—FUNDING OR REFUNDING BONDS.

(Acts 1911, p. 190, Sec. 9585.)

106. Township business—Funding or refunding bonds—Tax levy—Sinking fund. Any township in the State being indebted, or hereafter becoming indebted, and whose indebtedness if [is] or shall be, evidenced by bonds, notes or other obligations heretofore, or hereafter, issued, or negotiated by such township, may for the purpose of funding or refunding such indebtedness, or any part thereof, reducing the rate of interest thereon, extending the time of payment and cancelling so much thereof as may be due or shall hereafter become due, by the vote of two-thirds of the members of the township advisory board, and with the approval of the township trustee, issue its bonds, with interest coupons attached, for an amount not exceeding in aggregate the whole amount of the indebtedness of such township; which bonds may be of any denomination not less than fifty nor more than one thousand dollars and shall be payable at any place named therein and at any time not later than thirty years from the date thereof, and shall bear any rate of interest not exceeding four and one-half per cent. per annum, payable annually or semi-annually, and be sold at not less than par value. The township advisory board and the township trustee of such township shall add, or cause to be added, to the tax duplicate of such township a levy sufficient to pay the yearly interest on such bonds and also not less than five cents on the hundred dollars tax valuation to provide a sinking fund for the liquidation of the principal when it shall become due; which sinking fund, together with the interest increase or profit thereon, shall be applied solely to the payment of such bonds.

SYSTEM OF ACCOUNTING AND REPORTING.

(Acts 1909, p. 150.)

107. Trustee required to use forms prescribed by state board of accounts. It is the duty of the trustee, under the provisions of act 1909, creating the state board of accounts, to use all books, forms, records and systems of accounting and reporting prescribed by the state board of accounts for uniform use in all the townships of the State.

If he shall fail to do so he becomes subject to a fine of not less than \$100, and removal from office.

PUBLIC ADVERTISING.

(Acts 1879, p. 130, Sec. 9604.)

108. Legal rates of advertising—How set up. The act 1879, fixes the printer's advertising rates for all public advertising at \$1 per square of 250 ems for the first insertion; 50 cents for each additional insertion.

Such advertisement shall be set up in solid reading type as the newspaper is printed, without leads, and without more than two display lines to each, which display lines are to occupy no more space than four lines of regular reading matter.

In case the trustee can not procure such rates, the act provides that written or printed notices duly posted shall be sufficient, without newspaper publication.

INTOXICATING LIQUORS—"PROCTOR LAW."

(Acts 1911, p. 262, Sec. 8323bl.)

109. When Township receives part of liquor license fee. Sec. 23 provides for amount of the liquor license fee, regulating the fee of \$200 in retail licenses to be paid to the credit of the tuition fund of the county.

Additional license fees are required to be paid and graded in amounts on location, viz.:

That if such premises are located within the corporate limits of first and second class cities, or within four miles thereof, an annual fee of \$300;

All other cities, or within two miles of its corporate limits, an annual fee of \$200;

Incorporated towns, or within two miles of its corporate limits, \$150;

If located without the corporate limits of any city or town, and not within the distance above set out, the annual fee of \$50 shall be paid into the township treasury.

Note: The act of 1915, at page 20, providing for the return of license fee, does not apply to the fee paid to a township.

INTOXICATING LIQUORS—LOCAL OPTION.

(Acts 1911, p. 369, Sec. 8323b.)

110. How Township pays expenses of election. Sec. 10 provides for the payment of the expenses of an election held under the local option act, when held in any township or in the territory in any township outside of any incorporated city, or cities, therein, all of which shall be paid by such township.

It becomes the duty, in such case, for the county auditor to file with the township trustee an itemized statement of the expenses of such election, setting forth the names of each person to whom the same are payable and such expenses shall be paid out of the township fund.

Note: When such election is held only within an incorporated city, the expenses therefor are paid by such city, and not by the township.

TOWNSHIP LIBRARIES.

(Acts 1865, p. 3, Secs. 6647-6653.)

111. Trustee to provide book cases. The old law of 1865 makes it the duty of the superintendent of public instruction to superintend the purchase of books for Township Libraries, and distribute such books to the several townships.

The library is placed under the charge of the trustee, who is required to provide bookcases, preserve the books and keep an account to whom loaned. Every family in the township is entitled to the use of two volumes at one time from the library, and it became the duty of the trustee to post notice at commencement of each school term, at each school house, stating where the library is kept and inviting the free use of the books by the persons of the townships.

Note: It is believed that the township library law is regarded as obsolete in practically all the counties of the State.

(Acts 1877, p. 122, Sec. 6403.)

112. County board of education—Care and management. Under the amendment of the act 1877, establishing a county board of education in each county, it is provided that the care and management of township libraries shall be determined by that board.

LIBRARY—CITY OR TOWN—TAX.

(Acts 1909, p. 337, Sec. 4912a.)

113. Townships may join with incorporated city or town. Whenever the library board of any incorporated city or town shall file notice, with the advisory board of the township wherein such city or town is situated, of consent to make such library free and open to all the people of said township, or townships, on the condition of such township contributing to the support of such public library; such advisory board shall, upon the petition of 50 resident taxpayers, real estate holders in such township not already taxed for such library, make an annual appropriation and levy not less than 5 cents, nor more than 10, on each \$100 property of the township, excluding the property of such town or city, to be applied to the library fund of such library.

Where the privilege of the use of such library has already been extended free to the people of such township, upon notice to the advisory board by the library board that at least one-tenth of the families of the outside taxpayers in such township, are users of such library, such advisory board shall make the appropriation and levy without the filing of such petition.

Where any township coming under the provisions of the act, owning a township library, and levies a library tax therefor, it shall be discretionary with the advisory board whether or not such tax for such city or town library shall be levied.

Said library shall remain open and free to the people of such township so long as the families of one-tenth of the outside taxpayers are found users of such library.

When such tax is not levied, or is discontinued, the library board

may issue and sell a certificate or library card to such township residents at such annual fee as may be a fair compensation for the privileges extended.

(Acts 1911, p. 330, Sec. 4912b.)

114. Additional provisions—Powers of advisory board. This law was re-enacted in 1911, with additional provisions: providing for the extension of the use of the library to any neighboring township in the county; that the advisory board may levy the tax and make the appropriation without the petition; and in the case any township coming under the act owns a township library, it is left to the discretion of the advisory board, whether or not, such tax shall be levied for the city or town library.

TOWNSHIP LIBRARY—TRANSFER OR REVERSION.

(Acts 1899, p. 228, Sec. 4913-4914.)

115. When abandoned library books revert to township. The board of commissioners are authorized, by proper order entered on its records, to abolish a township library and require its property to be turned over and transferred to the trustees or managing officers of any library which may have been established by donation to the value of \$1,000 in the township, and in case of abandonment of such library, the books, papers and paraphernalia shall revert to such township.

TOWNSHIP LIBRARY—MANAGERS.

(Acts 1901, p. 187, Sec. 4908.)

116. Trustee an ex-officio member of board. In townships where a donation library has been established, as provided in Section 117 herein, the trustee shall be ex-officio one of the trustees, directors or other managing officers of such library.

TOWNSHIP DONATION LIBRARIES (\$1,000).

(Acts 1901, p. 187, Sec. 4907.)

117. When \$1,000 donation is made—Tax levy. In townships where there may be established a library by private donation, to the value of \$1,000 or more, which is for the use and benefit of all the inhabitants, including the inhabitants residing in municipal corporations in the township, the township advisory board shall annually levy a tax of not less than one, nor more than six cents on the \$100 upon the total taxables of the township and such municipal corporations, to be applied to the purchase of books for such library.

For enlargement of the library the advisory board shall levy not more than five cents on the \$100, for three consecutive years for such purpose.

TOWNSHIP DONATION LIBRARY (\$25,000 value).

(Acts 1895, p. 240, Sec. 4606.)

118. Duty of trustee when \$25,000 donation is made. In any township where there have been private donations made and a library of

the value of \$25,000 has been established for the use and benefit of the inhabitants of such township, the township trustee of such township shall annually levy and collect a tax not more than six cents on the \$100, with the consent of the board of county commissioners, to be applied to the purchase of books for such library.

When necessary to purchase additional ground or for the protection of library buildings already established by such donation, the trustee may levy a tax of 5 cents on the \$100 of taxables for such purpose, for not more than three years.

Note: It is believed that the advisory board, and not the trustee, should make the levy for the tax.—Editor.

TOWNSHIP DONATION LIBRARY (\$1,000 value).

(Acts 1886, p. 5, Sec. 4905.)

119. Duty of trustee when \$1,000 donation is made. In any township where there have been private donations made and a library of the value of \$1,000 has been established for the use and benefit of the inhabitants of such township, the township trustee of such township shall make an annual levy of not more than one cent on the \$100 of taxable property, with the consent of the board of commissioners, to be applied to the purchase of books for such library.

When it becomes necessary to erect or enlarge a library building, the trustee may levy an annual tax not more than 5 cents on the \$100, for not more than three years to erect or enlarge such library.

Note: It is believed that the advisory board, and not the trustee, should make the levy for the tax.—Editor.

LIBRARY—TOWNSHIP TAX.

(Acts 1911, p. 73, Sec. 6660.)

120. Election for a library tax for library. The advisory board of any township desiring to establish and maintain a public library open to and for the free use of all the inhabitants thereof, may levy a tax annually of not more than one mill on each dollar of taxable property assessed for taxation in such township. If the advisory board do not make such levy, then, on the written petition of fifty legal voters of any township filed with the county clerk not less than fifteen days prior to a township election, the county board of election commissioners shall cause to be printed on the township ballots for such township the words: "For a township library tax." "Yes." "No." If in the election a majority of the votes cast on said question shall be in the affirmative, the township trustee shall thereafter levy annually a tax of not less than five-tenths of a mill nor more than one mill on each dollar of the property taxable in said township for the establishment and support of a township library free to all inhabitants of such township, which tax shall be levied, assessed, collected and paid as other township taxes are levied, assessed, collected and paid: Provided, That after such library has been established such tax levy shall be discontinued when, under the above provision, the question of discon-

tinuing such levy shall have been submitted to a vote and the majority of the votes cast on said question shall be in the negative: Provided further, That if there be located in said township a public library open to the use of all the inhabitants thereof, then the proceeds of said tax shall be paid to said public library. Be it further enacted, that in any township outside of cities in which there has been or may hereafter be established by private donations a library of the value of ten thousand dollars or more, including the real estate and buildings used for such library for the use and benefit of all the inhabitants thereof, the township trustee of such township shall annually levy and collect not more than six cents on the hundred dollars, upon the taxable property within the limits of such township, which shall be paid to the trustees of such library, and be applied by them to the purchase of books for said library and to the cost of the maintenance thereof, and said trustee may, with the consent of the board of commissioners of the county, when it shall become necessary to purchase additional ground for the extension or protection of library buildings already established by such private donation, annually levy and collect not more than five cents on the hundred dollars upon all taxable property of said township for not more than three years successively, which shall be expended by said trustees in the purchase of said property and the erection and enlargement of library building thereon.

LIBRARY BOARD—TOWNSHIPS UNITING.

(Acts 1911, p. 73, Sec. 6661.)

121. Township library board—Townships uniting. In any township where a free public library is established as above provided, there shall be established a township library board composed of the school township trustee and two residents of the township, to be appointed by the judge of the circuit court (one of whom shall be a woman). Of the first two members of such board so appointed one shall be appointed for a term of two years and one for four years, and thereafter the term of office shall be four years. Such library board shall have control of the purchase of books and the management of such library, and shall serve without compensation. Said library shall be the property of the school township, and the school township trustee shall be responsible for the safe preservation of the same. Said board shall be entitled to the possession and custody of any books remaining in the old township library in such township and such board shall be empowered to receive donations, bequests and legacies for and on behalf of such library, and shall be entitled to receive from the public library commission and state librarian copies of all documents of this state available for distribution. Two or more adjacent townships may unite to establish and maintain a public library at the discretion of the advisory boards, and when two or more townships have so united, the combined library boards, appointed as herein specified or the board of the public library to which such money is paid as herein provided, shall control the library so established.

PUBLIC BUILDINGS — CONTRACTORS AND SUB-CONTRACTORS.

(Acts 1911, p. 437, Sec. 590a-b.)

122. Complete settlement for public building to be withheld—Contractors—Sub-contractors—Laborers—Disputes. Under supplemental act 1911, public officers who are empowered to let contracts for any public buildings of State, county or township, or the repair thereof, are required to withhold full payment to the contractor until he has paid to the sub-contractor or laborers employed in such contract all bills due and owing the same, provided there is a sufficient amount owing the contractor to pay all such bills and if there is not such, unpaid bills shall be pro rated.

Such sub-contractor and laborers are required to file their claims with the trustee within thirty days from the completion of the public work. Where no dispute arises between the contractor and the sub-contractor or the laborer, the trustee shall pay, as above, take receipts therefor and deduct the sums so paid from amount due the contractor. In case a dispute arises between them, sufficient funds shall be retained by the trustee to satisfy such claims, until such disputes are settled and the correct amount determined, when the trustee shall pay as aforesaid.

All contracts for any public building, improvement or repairs, shall make provision for such withholding by the trustee of funds sufficient to pay for labor, material and sub-contractors, and the bond required and given by such contractor shall be so conditioned, provided, however that laborers, material-men and sub-contractors shall file such unpaid claims with the trustee within thirty days after the labor is performed or the material furnished.

REMOVAL OF COUNTY SEATS.

(Acts 1895, p. 217, Sec. 5869.)

123. Special act 1895—Counties exceeding 500 square miles—Bonds of township. Under one of the acts for removal of county seat, see Acts 1895, p. 217, in counties containing an area of over 500 square miles, it is provided, that the trustee of the township to which the county seat is to be removed shall annually levy a special tax, to be known as "the court house and jail tax," for the purpose of paying for those county buildings by such township.

(Acts 1895, p. 217, Sec. 5886.)

124. Tax levies for payment of these bonds. This act also provides for the issuance of bonds to anticipate the tax levies. Such bonds shall bear a rate of interest not exceeding six per cent., and shall not be sold for less than par.

The act gives form of this bond and relates the process of sale of them.

The township bears all the expenses of the removal.

BURIAL OF EX-UNION SOLDIERS.

(Acts 1907, p. 330, Sec. 9774.)

125. Duty of the Trustee as to burial of ex-union soldiers or their widows. It is the duty of the Trustee to look after and cause to be buried by the undertaker designated by the family, if any, or the nearest relatives of the deceased, in a decent and respectable manner, in any cemetery or burial ground in the State, other than those used exclusively for the pauper dead, at an expense not to exceed \$50, the body of any honorably discharged soldier, sailor or marine who may have, at any time, served as a regular or volunteer soldier, sailor or marine in the army or navy of the United States, or the body of the wife or widow of such soldier, sailor or marine, who shall have died a resident of this State, not leaving means sufficient to defray the necessary funeral expenses, or whose immediate family is in such indigent circumstances that its members would be distressed by the expense of such burial.

When such Trustee finds a necessity therefor, he shall in addition to such burial, purchase a burial place for such soldier, sailor or marine in the most accessible cemetery.

Note: Relative to this matter, see *Gardner v. Board*, 161 Ind. 149, and *Shirfev v. Board*, 26 Ind. App. 66.

Note: The act of 1915, at page 12, provides for the burial of any honorably discharged soldier, sailor or marine, regular or volunteer, or the wife or widow of such; and for the allowance, by the board of commissioners, of the claim of any interested person for an amount not exceeding \$50.00.

It also provides for the purchase of a burial place for such, not to exceed a cost of \$25.00, all to be paid from the county fund.

Note: It is believed that the act of 1915 repeals Sections 9774 and 9775, Burns' R. S., Sections 125 and 126 this book, and that the Trustee is now relieved of the duty of burying soldiers and sailors except as far as such duties may be enjoined by the poor laws.—The Editor.

RECORD OF BURIALS.

(Section 9775.)

126. Duty of Trustee to report to board—Allowance—Record. The record of such burials shall not be kept in the pauper books of the township; but such burials shall be promptly reported by the Trustee to the county commissioners, and shall be allowed and paid out of the county treasury as other legal charges are allowed and paid.

Note: See notes above.

SOLDIERS' MONUMENT.

(Acts 1911, p. 335, Sec. 9589e.)

127. Law 1913, as to erection of soldiers' monument—Petition. Under the provisions of act 1913, upon the petition of a majority of the voters, based on the votes cast at last preceding election for secretary of state, township Trustees are authorized and empowered to appro-

priate from the funds of the township a specific sum for the purpose of the erection of a suitable monument within such township, in commemoration of the soldiers who fought and died in the war of the rebellion, and in defense of the United States, such sum not to exceed the sum which may have been donated to the township for that purpose.

The township advisory board is authorized under the act to make the proper tax levy for such purpose.

ENUMERATION OF VOTERS—SEXENNIAL.

(Acts 1865, p. 41, Secs. 7132, 7150, 7151-7154.)

128. How shall be made—White and colored voters, separately.

Under the provisions of act 1865, S. p. 41, at the end of each successive period of six years after the year 1871, it becomes the duty of the township Trustee to take the enumeration of all white male inhabitants over the age of twenty-one years. Under the subsequent act of 1877, at p. 59, the enumeration of all colored male inhabitants is required to be made at the same time, to be kept in a list to be designated as "colored male inhabitants" and to be kept separate from the list of "white male inhabitants."

The work of taking the enumeration of his township may be performed by the Trustee, or by one or more assistants appointed by him, who are required, before entering on such duties, to subscribe to an oath to be filed and kept by the trustee, for the honest and faithful performance of their duties.

This enumeration must be made between the first days of January and July of such sexennial year.

The report must contain the names of all persons, as above mentioned, arranged in alphabetical order, showing opposite the name of each person, his age as nearly as the same could be ascertained.

The returns shall contain the certificate of the Trustee under oath that all persons named therein are 21 years of age, and that no person was knowingly or negligently omitted from the list. Assistant enumerators are subject to removal at any time by the trustee.

The lists so taken shall be promptly transmitted to the county auditor, and any errors or omissions may be corrected by the Trustee before such delivery.

Compensation for such services is the same as for taking the enumeration of school children, and is paid out of the county treasury.

Any enumerator who shall fail to perform his duty is deemed guilty of official negligence, and is subject to a fine of from \$50 to \$500. Thirty days imprisonment in jail may be added.

Any enumerator who shall be guilty of any fraudulent act or omission in relation to his duties, is deemed guilty of official fraud and is subject to a fine of from \$100 to \$1,000. Six months' imprisonment in jail may be added.

Any enumerator who shall willfully and corruptly suppress the truth, or make any false statement in regard to his return under his oath shall be deemed guilty of perjury, and upon conviction thereof shall be punished as is prescribed for that offense.

DRIFTS AND OBSTRUCTIONS—CLEARING OF.

(Acts 1913, p. 945, Sec. 10139a.)

129. Abutting owners to clean. The act of 1913 regulating the clearing of obstructions of any small stream of water, not navigable and not exceeding ninety feet in width, between banks, requires that abutting owners shall clean out all drifts and obstructions from the channel, as to leave the same free and open for the free flow of water therein. This is required to be done in equal proportions by such owners.

When the obstruction affects the lands of other owners which do not abut such stream, the township trustee after notice by not less than two interested parties shall appoint three disinterested parties to view such land and determine upon the equitable amount each land-owner affected should pay or work out in the removal of such obstructions, according to the benefits derived.

If any person fails to pay such equitable amount so determined, or work out the amount thereof, the Trustee shall cause the same to be worked out under his direction in removing such obstruction, and the cost thereof shall be placed upon the tax duplicate, and the same shall be collected as other taxes.

Any aggrieved person may appeal to the circuit court of his county.

It is provided, if any township property or roads are affected by such obstruction, one-half of the cost of removing such obstruction shall be paid by the township and the remainder by the owners affected.

Note: It is doubtful whether the provision that the Trustee may remove obstructions and make the cost thereof a lien upon the land of non-abutting owners is valid, because no provision is made for giving notice to such owners. No doubt a decision from the courts will be necessary to determine the meaning of the last sentence of the act.—Editor.

DOG TAX.

(Acts 1897, p. 178, Sec. 3258-3259.)

130. Collected by township assessor—Payment to Trustee. The tax is collected by the township assessor, who, within five days after the completion of the township assessment, must turn over to the Trustee all money received by him as dog tax and all records relating to its collection and a copy of all receipts issued to persons paying such tax. Unpaid dog taxes must be paid to the trustee after the assessor completes his assessment.

(Acts 1892, p. 178, Sec. 3262.)

131. Delinquent dog owners reported to Trustee—Prosecuting attorney. The township assessor is required to report all delinquent dog owners to the Trustee, at the time of making his other report. It becomes the duty of the Trustee to report the same to the prosecuting attorney, who shall bring action against such persons. If any person shall acquire, own, harbor or keep a dog after the assessor shall have completed his assessment, such owner shall report to and pay the prop-

er tax to the Trustee, whose receipt will exempt the owner from further payment until the next assessment.

(Acts 1879, p. 178, Sec. 3268.)

132. Purposes of the fund. The money derived from taxing dogs shall be used for the payment of damages sustained by owners of sheep, cattle, horses, swine and other live stock, or fowls killed, maimed or damaged by dogs within the township.

(Acts 1897, p. 178, Sec. 3269.)

133. Claims for damages—Appraisement. The owners of sheep, cattle, swine, horses, and other live stock or fowls killed, maimed or damaged by dogs, shall within ten days from the time thereof, report to the Trustee of his township under oath in which he shall state the number and age as he believes, and the value of such stock or fowls so killed or damaged, and the damages sustained on account of such stock or fowls killed or maimed, in which affidavit he must be joined by two disinterested and reputable freeholders, or householders, and any person or persons who shall make any false statements of such damages, shall upon conviction be fined in any sum, not exceeding one hundred dollars to which shall be added imprisonment in the county jail, for any term not exceeding thirty days: Provided, however, That no appraisement shall exceed the actual cash value for which such live stock or fowls would have sold for if placed on the market at the time such damage was sustained: Provided, further, That if any township Trustee deems the appraisement of such live stock or fowls so killed or maimed to be excessive he shall tender to the owner or owners, or credit upon his books such amount which in his judgment is equal to the injuries sustained, and if in any action at law by the owners thereof for the recovery of such damages, said owner shall fail to recover a judgment exclusive of costs for an amount greater than the amount so tendered the defendant shall recover costs of such suit.

Note: The claim must be filed with the Trustee within ten days from the date when the dog bites, or injures, the animal, and not ten days from the date of the death of the animal.

(Acts 1897, p. 178, Sec. 3270.)

134. Trustee's registry of claims—Surplus over \$100. The Trustee shall register all losses in the order in which they are reported: Provided, That no person shall receive pay for sheep, horses, cattle, swine or other live stock or fowls killed or maimed by any dog or dogs owned or harbored by himself: Provided, further, That the dog fund heretofore collected shall be added to and applied with the fund arising under the provisions of this act. And when it shall so occur on the first Monday of March of any year in any township in the State of Indiana that said fund shall accumulate to an amount exceeding one hundred dollars over and above orders drawn on the same, the surplus aforesaid shall be paid and transferred to the county treasurer of the county in which such township is located and the fund arising from such surplus from the township of the county shall constitute a county dog fund and shall be distributed among the townships of the county

in which the orders drawn against the dog fund exceed the money on hand. This distribution shall be made on the second Monday in March of each year, and if said county dog fund be insufficient to pay for all the live stock or fowls maimed or killed by dogs of all the townships the distribution shall be made in the ratio of the orders drawn against the dog fund of the township and unpaid and unprovided for, which ratio shall be obtained from the report of the Trustees of the townships made to the auditor of the county which it is hereby directed shall be made by each township Trustee of the county upon the first Monday of March of each year, which report shall show all receipts into the dog fund of his township, and all orders drawn against the same in the order in which they were drawn. And when it shall occur upon the second Monday in March of any year that there is a surplus left of the county dog fund after provisions have been made for the payment for all the live stock or fowls killed or maimed, of all the townships of the county, such surplus shall be distributed for the schools of the county in the same manner the common school revenue of such county is distributed.

HYDROPHOBIA FUND—COUNTY AUDITOR.

(Acts 1911, p. 161, Sec. 7604.)

135. Five per cent. of surplus dog tax. The county auditor shall annually on the first of April of each year pay to the state auditor five per cent. of the surplus dog tax collected from the townships of the county. The amount received from all county auditors shall constitute a state hydrophobia fund in the state treasury.

The surplus exceeding \$3,000 at end of fiscal year shall be turned into the school fund of the State.

PUBLIC AID TO RAILROADS.

(Acts 1903, p. 233, Sec. 5465.)

136. Extension of aid to railroads applies to interurbans. Under the provisions of act 1903, all acts providing for public aid, by donations or stock, to railroads were extended to street railroads, suburban or interurban roads.

(Acts 1889, p. 82, Sec. 5464.)

137. Procedure before board to give aid to railroads. Upon the petition of 25 freeholders of any township to the board of county commissioners asking that such township shall give public aid to a railroad, by donation or by subscription to stock, if the board shall find the purpose of the petition to be of public utility, shall order an election, not less than 30 nor more than 60 days therefrom, to determine the majority wish of the legal voters of the township.

(Acts 1869, p. 92, Sec. 5476.)

138. Election as public aid to railroads. Upon a majority vote cast in favor of the appropriation, the board shall grant the prayer of the petition and levy a special tax, not exceeding one per centum of the taxables for any one year.

(Acts 1875, S. p. 70, Sec. 5477.)

139. Limitation of such public aid by township. The limit of aid to such railroad shall not exceed two per centum of the total taxables appearing on the tax duplicate, in any one period of two years.

(Acts 1879, p. 46, Sec. 5489.)

140. Township not liable for labor or material claims. Any township which shall become the owner or holder of stock in any railway shall be not liable for any debt or claim for work, labor or material incurred in building such road, after the assets of the company shall be exhausted.

(Acts 1872, S. p. 54, Sec. 5500.)

141. When aid is taken in stock, Trustee to vote shares. Township Trustees shall have the right to vote the stock held by their township in all meetings of stockholders of the railroad companies by which such stock was issued.

SALE OF TOWNSHIP PROPERTY—NOTICE.

(Acts 1915, p. 91, amending Sec. 9567.)

142. Can only be sold at public auction—Thirty days' notice. No township Trustee shall sell any real or personal property of such township except at public auction after notice for thirty (30) days prior to the day of sale, by posting notices thereof at six (6) public places in said township of the time, terms and place of said sale, giving a description of the property to be sold: Provided, That any gravel or other road material belonging to such township may be sold by the Trustee of such township with the approval of the advisory board without giving notice and without offering such gravel or other road material for sale at public auction. All money derived from the sale of such gravel or other road material shall be carried into the township treasury and shall constitute a part of the township road fund and shall be disbursed as the other moneys belonging to such fund are disbursed.

(Acts 1915, p. 135.)

142a. Transfer of property by civil townships. Any building or other property belonging to any civil township in this state may be conveyed to the corresponding school township in the manner prescribed in this act.

In order to effect the transfer or conveyance of any building or other property from any civil township to the corresponding school township, a petition may be filed with the board of commissioners of the county in which such civil township is situated, asking for the conveyance or transfer of such building, or other property, the nature of the building or other property to be conveyed or transferred, and the reasons for desiring to effect such conveyance or transfer. The petition shall be signed by a majority of the legal voters resident within such civil township and shall be filed in the office of the county auditor. At the time of filing such petition the petitioners shall give a bond

with good and sufficient freehold sureties, payable to the state, to be approved by the board of commissioners, conditioned to pay all expenses in the event the board of commissioners shall fail to authorize the proposed conveyance or transfer. Immediately after such petition shall have been filed the county auditor shall give notice of the filing of such petition by causing publication: to be made once a week for two (2) consecutive weeks in one newspaper printed and published in the county and of general circulation in the county in which such civil township is situated. The board of commissioners shall hear the petition at their next regular term, and on the day designated in the notice and shall determine all matters pertaining thereto, and if such board shall be satisfied as to the propriety of granting the prayer of the petitioners, they shall so find, and thereupon the Trustee of such civil township shall convey such building or other property belonging to such civil township to such corresponding school township and such school township shall thereafter hold, control and manage such building or other property. All expenses incurred in the conveyance of such property if such conveyance be authorized, shall be paid out of the general funds of such civil township.

SCHOOL LANDS—CUSTODY AND CARE.

(Acts 1873, p. 79, Sec. 6186-6188.)

143. Congressional school lands—Who shall manage—Leases—Reports. The custody and care of school lands belonging to the congressional school fund shall be with the Township Trustee of the civil township wherein contained. He is required to report annually to the county auditor, by the fourth Monday in March, the annual income derived therefrom. This report must embrace all particulars as to rents, collections, amounts uncollected and reason therefor.

Upon a majority vote of resident voters of such congressional township, the Trustee has power to lease such lands, for money, property or improvements, for a time not exceeding seven years.

When such school section shall be divided by a county or civil township line, or where the substituted section lies within any other county, the voters of the congressional township shall designate, by a vote, or by the written direction of a majority thereof, the Trustee of a civil township, which includes a part of such section, to have the care and custody of said section, and carry out the directions of the voters of the township, thereto.

Such Trustee shall have same powers and duties as if the whole of such section was within his civil township.

SCHOOL LANDS—POWER OF TRUSTEE.

(Act 1865, p. 3, Sec. 6196.)

144. Powers of a landlord given Trustee. The Trustee shall have all the rights and powers of a landlord, in his official name, in coercing fulfillments of contracts relating to school lands, and preventing waste or damage, or for recovery of the same when committed.

SCHOOL LANDS—SALE OF.

(Acts 1865, p. 3, Sec. 6197.)

145. Procedure to sell. At any time when five voters of the congressional township shall by petition to the Trustee having charge of such school land, belonging thereto, set forth their desire for the sale of the part or whole thereof, the Trustee shall give public notice in five public places in said township, of the time and place in such township when and where a balloting will be had to determine whether said school land shall be sold as petitioned, or not.

Twenty days' notice of such meeting is required.

SCHOOL LAND—PROCEDURE OF SALE.

(Acts 1865, p. 3, Sec. 6198.)

146. Record of all proceedings required. All proceedings relating to such petition and the action of the Trustee therein shall be made a matter of record.

SCHOOL LAND.

(Acts 1865, p. 3, Sec. 6201-6202.)

147. Election to sell—Report to county auditor. Full details concerning such election, its record and trustee's duty in reporting results to the county auditor is given at length in the act.

COUNTY SUPERINTENDENT—ELECTION.

(Acts 1911, p. 28.)

148. Extension of term, act 1911. Under the provisions of the amended act of 1911, the Township Trustees were required to meet at the office of the county auditor on the first Monday in June, 1911, and every four years thereafter, and elect by ballot a county superintendent for such county.

(Acts 1913, p. 160, Sec. 6376.)

149. Election in June, 1917. This was further amended by act 1913, page 160, which gave an extension of two years to the term of the county superintendent, requiring the Township Trustees to meet first Monday in June 1917, to elect such superintendent.

(Acts 1911, p. 156, Sec. 6376 and 6378.)

150. Qualifications—How vacancy is filled. It is required that a person to be eligible as county superintendent and to hold such office must have been actively engaged in school work for a period of not less than two years out of the ten years preceding his election and hold at such time of his election, either three years' state license, a sixty months' license, a life or professional license, granted upon examination as now provided by law.

Whenever a vacancy occurs in such office, upon a three days' notice of the county auditor, the Township Trustees shall assemble at ten o'clock a. m. on such day designated, at the office of the county auditor and fill such vacancy by ballot for the unexpired term.

(Acts 1873, p. 75, Sec. 6402.)

151. Books open for inspection at all times—Duty of county superintendent. The dockets, official records and books of accounts of all officers, including the Township Trustee, as to all school matters, shall be open at all times, to the inspection of the county superintendent. The superintendent is required to bring suit in the name of the State for recovery from public officials of all school monies which may have been wrongfully withheld, or misapplied by such officials.

COUNTY BOARD OF EDUCATION.

(Acts 1877, p. 122, Sec. 6403.)

152. Who compose this board—Its duties—Meetings. The county superintendent, the Township Trustees and the chairman of the school boards of each school town and city of the county, shall constitute the county board of education.

Such board shall meet semi-annually on first day (Sunday excepted) in May and September at the office of the county superintendent, which officer shall preside at all meetings.

The board shall consider the general wants and needs of the schools and school property in their charge and all matters relating to the purchase of school paraphernalia.

The management of township libraries shall be determined, and each school township shall conform therewith as nearly as practicable.

No change in a text-book which has been adopted can be made for six years from the time of its adoption, except by unanimous vote of all the members of the board; and in no case for three years from the date of its adoption.

A majority of the members of the board shall constitute a quorum.

(Acts 1915, p. 151, amending Sec. 6678.)

153. Elects county attendance officer. It is the duty of this board to meet on the first day of May in each year for the purpose of electing a county attendance officer. Such officer takes his office on the first day of the following August.

This comes up under the compulsory education law, Acts 1913, p. 616, which repealed the "truancy law" of 1901, page 470.

PUPILS—BENEVOLENT INSTITUTIONS.

(Acts 1865, p. 124, Sec. 3427-3432.)

154. How pupils are to be admitted to. Applications for admission to the state benevolent institutions, viz.; for education of the blind; the deaf and dumb, or hospital for the insane, must be accompanied by the certificate of a justice of the peace, that the applicant is a legal resident of the county stated in the application.

When it is deemed necessary by the proper officers of such institution that a pupil should be removed therefrom by reason of ill health; a vacation of such school; a completion of the course of instruction, or

because of disqualification for longer continuance as a pupil; it becomes the duty of the superintendent of the institution to cause such pupil to be delivered to the Trustee of the township, where he resided before coming to the institution; and the expense therefor shall be paid by the county, and the treasurer shall charge the same to the proper township.

ORPHANS' HOME—ADMISSION.

(Acts 1893, p. 307, Sec. 3641.)

155. How commitments are made.

Note: The act of 1893, page 307, Section 3641 Burns' R. S. provided for the admission to the county orphans' home through the Township Trustee.

It is deemed this has been superseded by a later law, Acts 1907 at page 59, which provides for such admission through the judge of juvenile court.

When a child under the care of the Trustee should be sent to an orphans' home, the Trustee can bring the case to the attention of the judge of the juvenile court, either in term time or in vacation. A child can not be supported in an orphans' home by the county unless it has been made a public ward by the juvenile court (the circuit court in all counties except Marion).

THE POOR.

(Acts 1901, p. 323, Sec. 9741).

156. Overseer of the poor—Duties. The Township Trustee is ex-officio overseer of the poor within his township, and performs all duties with reference to the poor in such township that may be prescribed by law.

(Acts 1901, p. 323, Sec. 9744.)

157. Duty towards poor with legal settlement in his township—County asylum. Every county shall maintain a county asylum for the poor, in addition to other charitable institutions for the poor, and shall support therein such poor and indigent persons, lawfully settled in the county, as may be placed there by the Township Trustee.

The county council shall appropriate and the board of commissioners shall advance to the Township Trustee the money necessary for the relief and burial of the poor in each township, which money shall be accounted for and repaid to the county treasury as will be later explained.

In other words, the county cares for the poor which are inmates of the asylum and the Trustee cares for the resident poor of his township, who have a legal settlement.

(Acts 1901, p. 323, Sec. 9745.)

158. What constitutes a legal settlement. A legal settlement in the county or township, so as to obtain relief and support, may be acquired as follows:

1st. The settlement of a married woman shall always follow that of her husband, if he has a settlement in the State, otherwise she re-

tains her own at time of her marriage, which shall not be lost or suspended by such marriage.

In case the husband and wife have resided six months in any county of the State, and he shall afterwards abandon her, and she had a residence at the time, her settlement shall be in such resident township.

2d. Legitimate children follow the settlement of the father, if he has one in the State, until they gain one of their own. If the father has no settlement within the State they then shall have the settlement of the mother, if she has any.

3d. Illegitimate children shall follow the settlement of their mother at the time of their birth, if she had any in the State.

Neither legitimate nor illegitimate children shall gain a settlement by birth where born unless the parent or parents had a settlement therein at the time.

4th. Every male person and unmarried woman over the age of 21 years, resident, without interruption, in any township for one whole year, acquires a settlement.

5th. Every minor whose parent, and every married woman whose husband has no settlement in the State, who shall have resided continuously in any township one whole year, shall thereby gain a settlement therein.

6th. Every minor apprenticed in good faith shall thereby acquire a settlement with the master or mistress.

7th. Every settlement acquired shall last until it is lost or defeated by acquiring a new one in the State, or by willful and uninterrupted absence from the township, for one whole year or upwards, or upon acquiring a new settlement.

(Acts 1901, p. 323, Sec. 9746.)

159. Relief—Medical and surgical attendance. The Trustee has the oversight and care of all poor persons in his township so long as they remain in charge, and shall see that they are properly relieved and taken care of in manner required by law.

He must in cases of necessity promptly provide medical and surgical attendance for all poor of the township who are not cared for in public institutions and see that such medicines as are prescribed are promptly furnished.

(Acts 1901, p. 323, Sec. 9747.)

160. Trustee to make investigation in all cases. Whenever a claim for relief shall be made upon the Trustee, it becomes his duty to investigate the circumstances of the parties claiming to be poor and in distress.

This embraces their legal settlement, physical condition of sickness or health, present or prior occupation, ability and capacity for labor, their ages and names, and the ability and capacity of all the members of their family; and if they are found in distress, the cause of their condition, if it can be ascertained; and make inquiry, whether or not, such claimants have family relations who are willing to assist them.

(Acts 1901, p. 323, Sec. 9749.)

161. Shall insist that all able-bodied persons shall work—Seeks employment. If the poor persons applying are in good health, or if any members of their family are so, the overseer shall insist that those able to labor shall seek employment and he shall refuse to furnish any aid until he is satisfied that the persons claiming help are endeavoring to find work for themselves. The overseer, in such cases, shall make all possible effort to secure employment for the able-bodied in the township where they reside and may call upon residents of the township to aid him in finding work for such persons as are able to labor.

(Acts 1901, p. 323, Sec. 9748.)

162. When temporary aid shall be given. In cases of immediate and pressing suffering, the Trustee must furnish such temporary aid as may be necessary, but before further, final or permanent relief can be given the Trustee must determine whether it can be accomplished by other means than an expenditure of township funds.

(Sections 9751-9752.)

163. Limitation of \$15 in value to any person or family. Persons who have legal settlement in the township, however, are entitled to any relief that may be necessary. At any time that such relief, outside of school aid, medical aid or burial, amounts to \$15, authority must be had from the county commissioners before more is given. This does not limit aid to \$15 a month, or a quarter, or a year. It simply means that whenever that amount has been given, the case must be reported to the county commissioners, for such action as they may decide to take.

(Section 9751.)

164. Board of commissioners consent for excess over \$15—Procedure. The Trustee, upon application to the board of commissioners for such further relief, shall present a full statement of the case, with schedule, showing:

The full names and ages of persons, or if for families, of the members thereof; previous occupation; condition of health; fitness for labor; capacity or ability for work; what near relatives within the township; and the efforts of trustee to secure employment for those able to labor.

(Sections 6683, 9751-9752.)

165. Limitations to poor relief. For medical aid, burial or aid under the compulsory education law, the Trustee shall give whatever is necessary. For other forms of aid, he cannot give more than \$15 to any one applicant without the approval of the county commissioners.

(Acts 1901, p. 323, Sec. 9750.)

166. Removal to county asylum upon refusal to work—Relatives. If a claimant for relief, having relatives within the township, has been given relief, further aid shall be refused until the trustee shall have called upon such relatives of such poor persons and has asked of them

to help such poor relatives for either material relief or by furnishing them employment.

If any person so applying is able to work, and refuses to labor when given opportunity, further aid shall be refused to such person except admission to the county poor asylum, where he shall be compelled to work.

(Acts 1901, p. 323, Sec. 9753-9754.)

167. Trustee's co-operation with organized charity societies. The Trustee shall co-operate with societies for the relief of the poor, or other organizations for charitable purposes, if any, in his township, and give and ask for information concerning the poor of his township.

He shall co-operate with such charitable associations to the end that there shall be no unnecessary duplication of relief, and that the creation of new families of paupers, through misguided and useless alms, may cease.

He shall also seek the aid of such societies in securing employment for claimants who are able to work.

(Acts 1901, p. 323, Sec. 9755.)

168. When may give aid to non-residents. The Trustee may, in proper cases, give temporary aid to persons who are sick, aged, injured or crippled and unable to travel even though they are non-residents of his township.

It is unlawful for the trustee to aid able-bodied non-residents, except by providing some form of manual labor. The Trustee shall endeavor to provide some form of hard manual labor for non-resident able-bodied applicants for relief.

(Acts 1901, p. 323, Sec. 9756.)

169. When may furnish transportation to non-residents. Expenditures by the Trustee on account of transportation of non-residents can be lawfully made only after inquiry has disclosed the legal residence of the person applying, and when given, the transportation must be in the direction of such legal residence, unless it be shown beyond reasonable doubt, that the person has some valid claim for support, or some means of support, in some other place towards which the applicant shall ask to be sent. Such inquiry may be made by correspondence, or otherwise. It is unlawful to furnish transportation to an able-bodied non-resident. Sec. 9755, Burns' R. S.

(Section 9758.)

170. Penalty for violation of poor laws. Any Trustee violating any of the poor laws, shall be fined \$5 to \$20.

(Sections 9759-9760.)

171. Record of all relief given—Duplicate reports to board. The act, 1901, p. 323, requires the Trustee, who administers relief to persons not inmates of any public institution, to keep a record of the full name; age; sex; color; married or single, and nationality of person to whom relief is given; also the date; amount in money, or value and kind. He shall furnish the auditor with two copies of such record.

When relief is given to one for use of another, the record should show the number of such recipients; age and sex; and, if restricted to a single family, it shall show the name; age; sex; color, and nationality.

The record must be made to show the reasons for giving relief in each instance.

In the absence of such record and duplicate copies, it is unlawful for the board of commissioners to approve or allow payment of the expense of such relief to any person not an inmate of a public charitable institution, until the two copies, as above mentioned, shall have been duly filed with the auditor.

(Section 9761.)

172. When aggrieved poor person may appeal to board of county commissioners. If any poor person shall suppose that he or she is entitled to the benefit of the laws for such relief, and the Township Trustee has refused to give such relief, the claimant may apply to the board of commissioners, which may, if it thinks proper, direct the trustee to give the relief.

(Section 9762.)

173. Duty when legal residence is not certain. In case the Trustee is unable to ascertain the legal settlement of a poor person in need within the township, he shall proceed to provide for such poor person, in the same manner as by law directed to provide for other poor persons.

(Section 9763.)

174. When Trustee shall place poor non-resident in asylum. Whenever any person entitled to relief as a pauper shall be in any township in which he has not a legal settlement, if deemed advisable, the Trustee shall grant such relief by placing such person temporarily in the county poorhouse, to be employed so far as such person is capable of employment.

(Section 9764.)

175. When non-resident likely to become a public charge. Upon complaint of any overseer of the poor, any justice of the peace may, by his warrant directed to and to be executed by any constable or by any other person therein designated, cause any poor person found in the township of such overseer, likely to become a public charge and having no legal settlement therein, to be sent and conveyed, at the expense of the county, to the place where such person belongs if the same can be conveniently done; but if he or she can not be so removed, such person shall be relieved by such overseer whenever such relief is needed.

Note: For the proper practice in such proceedings see *Cicero Township v. Falconberry*, 14 Ind. App. 237.

(Section 9765.)

176. Appeal of receiving Trustee to the board of commissioners. The Trustee of the township to which paupers may be sent by virtue of Section 9764, feeling aggrieved at such delivery of pauper to his

township, may within twenty days appeal to the circuit court, of the county from which such paupers are sent, as other appeals are taken from justice's court.

(Section 9768.)

177. When has legal residence, Trustee must receive. If any person is removed to a township, by virtue of such judgment of the justice, it is the duty of the Trustee to receive such person if he has a legal settlement in that township.

(Section 9771.)

178. January report of poor and settlement—Board of county commissioners. As overseer of the poor of his township the Trustee must make settlement with the board of county commissioners annually during the first ten days of January, or oftener if such board shall so direct, of all poor relief for the past year and file all vouchers therefor as required by law.

(Section 9772.)

179. Board's power to require reports more often. Boards of commissioners are likewise directed to make such settlement with the Trustee at least once every year, and oftener if the board shall deem the same necessary.

(Section 9773.)

180. Complaint for needy sick non-resident—Expense of burial. It shall be the duty of the Trustee, on complaint made to him that any person not an inhabitant of his township is lying sick therein, or in distress, without friends or money, and likely to suffer, to examine into the case of such person and to grant temporary relief as may be required.

If any person shall die in any township, who shall not leave money or other means necessary to defray funeral expenses, it shall be the duty of such Trustee to provide for and superintend the burial of such deceased person, the necessary expenses whereof shall be paid by the township and upon the order of the Trustee.

(Section 9776.)

181. When Trustee shall bind out poor children. It shall be the duty of the Township Trustee to bind out such poor children as fall under his care and charge, from time to time. He shall see that the children, so bound, shall be properly treated by the persons to whom they are bound, and shall take legal means of redress in case of maltreatment.

Within 30 days after children are bound out, the trustee shall report the fact to the county auditor, together with name and residence of the persons to whom the children are bound. The auditor shall include such facts in his next report to the board of state charities.

Note: The statute of 1852 providing for binding out children by Trustees is Section 8383 Burns' R. S.

This section refers to children not made public wards by juvenile courts. See Section 155, this book.

(Section 9777.)

182. When duty to remove paupers to county asylum. Township Trustee shall, from time to time, as persons become permanent charges upon his township, as paupers, have such persons removed to the county asylum.

POOR—REPORT OF EXPENSES, LEVY OF TAX.

(Acts 1907, p. 256, Sec. 9778.)

183. Auditor's duty to keep poor account—September report to board. The county auditor of each county shall report to the board of county commissioners on the first day of the regular September term of said court, annually, the amount advanced during the preceding nine months and an estimate of the same for the remaining three months of the then current calendar year, to the overseer of the poor for poor relief and for medical attendance of the poor of each township by said board. When the township levies are made the proper authorities of each township, for the poor of which any such advancements have been made, shall levy a tax upon the property of such township, to reimburse the county treasury for payments made on such advancements, which taxes shall be collected as are other township taxes, and shall be paid into the county treasury. If the proper authorities of any township shall fail to levy a sufficient tax to repay such advancements, the county auditor shall levy the same. The county auditor shall keep a debit and credit account with each civil township, showing the amounts received on said levy and the amounts advanced by the boards of county commissioners to the overseers on account of the relief and burial of the poor, and on the first day of January of each year shall balance the account and as soon thereafter as possible transmit a statement of the balance to the overseers of the poor of the townships. Such balance shall be taken into account in making the levy for the reimbursement of the county the ensuing year.

HOSPITALS—COUNTY MAINTENANCE—TUBERCULOSIS.

(Acts 1913, p. 474, Sec. 3776z-3776a1.)

184. 1913 law—Duty of the trustee—Non-resident patients. The act 1913, p. 474, providing for the establishment of hospitals by the board of county commissioners, arranges for the admission of non-residents of the county as patients, as follows:

In any county not having a county hospital for the care and treatment of persons suffering from tuberculosis, a township trustee of any township of the county, upon the receipt of the application and certificate hereinafter provided for, may apply to the superintendent of a hospital established by any other county, for the admission of such patient. Any person residing in a county in which there is no such hospital, who desires to receive treatment in such a hospital, may apply therefor in writing to the Township Trustee of the township in which he resides on a blank to be provided by said superintendent for the purpose submitting with such application a written certificate signed by a reputable physician on a blank to be provided by

the Township Trustee for such purpose, stating that such physician has, within ten days, next preceding, examined such person, and that in his judgment, such person is suffering from tuberculosis. The Township Trustee, on receipt of such application and certificate, shall forward the same to the superintendent of any hospital for the care and treatment of tuberculosis. If such patient be accepted by such hospital the Township Trustee shall provide for his transportation thereto, and for his maintenance therein at a rate to be fixed as hereinafter provided.

When admitted—Compensation. Whenever the superintendent of such a county hospital shall receive from a Township Trustee of any township of any other county an application for the admission of a patient, if it appears from such application that the person therein referred to is suffering from tuberculosis, the superintendent shall notify said person to appear in person at the hospital, provided there be a vacancy in such hospital and there be no pending application from a patient residing in the county in which the hospital is located. If, upon personal examination of the patient, the superintendent is satisfied that such patient is suffering from tuberculosis, he shall admit him to the hospital. Every patient so admitted shall be a charge against the township sending such patient, at a rate to be fixed by the board of managers, which shall not exceed the per capita cost of maintenance therein, including a reasonable allowance for interest on the costs of the hospital; and the bill therefor shall, when verified, be audited and paid by the Township Trustee of the township.

The said Township Trustee shall cause an investigation to be made into the circumstances of such patient, and of his relatives legally liable for his support, and shall have the same authority as an overseer of the poor in like circumstances to collect therefrom, in whole or in part, according to their financial ability, the cost of the maintenance of such person in said hospital.

ANTITOXINE BLANKS—RECORD.

(Acts 1907, p. 260, Sec. 7626.)

185. Trustees to be supplied with blank applications. Under the provisions of act 1907, all counties, cities and towns are required to supply free of charge diphtheria antitoxin to people too poor to purchase the same.

The state board of health shall supply uniform blanks to all county health officers, who shall supply them to Township Trustees, and others. Trustees shall at all times keep themselves supplied with the application blanks for the purpose of supplying them to physicians when needed.

TOWNSHIP TRUSTEE—AS SCHOOL TRUSTEE, DUTIES.

(Acts 1901, p. 514, Sec. 6410.)

186. General duties as Trustees of schools—Powers of Trustee—Graded high schools. The duties of the School Trustee of the township are various. Among his duties are:

1st. He shall take charge of the educational affairs of his township;

2d. He shall employ teachers, establish and locate conveniently a sufficient number of schools for the education of the children therein;

3d. He shall build or otherwise provide, suitable houses, furniture, apparatus and other articles and educational appliances necessary for the thorough organization and efficient management of said schools;

4th. He may also establish and maintain in his township, as near the center thereof, as seems wise, at least one separate graded high school, to which shall be admitted all pupils who are sufficiently advanced provided at such time there are at least 25 common school graduates of school age residing in such township;

5th. He may join with school trustees of one or more school corporations and may establish and maintain joint graded high schools, in lieu of separate graded high schools, and when so done they jointly shall have the care, management and maintenance thereof;

6th. He may, instead of building a separate high school for his township, transfer the pupils of his township competent to enter a graded school to another school corporation.

SCHOOLS—MEDICAL INSPECTION OF CHILDREN.

(Acts 1911, p. 485, Sec. 6585a.)

187. Examinations by physicians—Compensation of physicians. Under the provisions of act 1911, the School Trustees are permitted and recommended to institute medical inspection of all school children under their charge, and for such purpose may appoint at least one school physician for each school corporation. No physician shall have more than 2,000 school children under his charge. The statute requires that the physician shall be temperate, able-bodied and clean in person and in character. His compensation shall be determined by the Trustee.

Such school physician shall serve one year, but he may be discharged at any time.

SCHOOLS—CONTAGIOUS DISEASES.

(Acts 1911, p. 121, Sec. 6616b.)

188. Duty as to prevention of contagious and infectious diseases. Whenever diphtheria, scarlet fever or other contagious and infectious diseases break out in any township school, the trustee having control shall have medical inspection made of the pupils, and all found in any degree ill, shall be sent home and there retained until the local health officer gives a certificate of health, then such child may be again admitted to school.

Trustees are prohibited from employing teachers or janitors who are not able-bodied or who are addicted to drugs or who are intemperate or who have tuberculosis or syphilis.

SCHOOLS—UNCLEANLINESS.

(Section 6616b.)

189. Penalty for neglect annually to clean schoolhouse. All schoolhouses shall be specially cleaned and disinfected each year before they are used for school purposes. The act provides that the cleaning shall consist in first sweeping, then scrubbing the floors, washing the windows and all wood work, including the wooden parts of seats and desks.

The disinfecting shall be done in accordance with the rules of the state board of health.

Township Trustees, and other school authorities, who neglect or refuse to obey the provisions of the act shall be fined from \$10 to \$100. Each refusal or neglect shall constitute a separate offense.

SCHOOLS—LENGTH OF TERM.

(Acts 1899, p. 424, Sec. 6411.)

190. Six months of school required each year. The trustee shall maintain a term of school at least six months in duration, and his local tuition levy must be sufficient for this when added to the state tuition revenues.

CONTROL OF PROPERTY.

(Acts 1907, p. 385, Sec. 6412.)

191. Has control and management of all property of civil township—Janitors. The School Trustee shall have the care and management of all property, real and personal, belonging to the township for common school purposes, except congressional township lands, (Section 16 of each congressional township which has not been sold), which shall be under the care of the Trustee of the civil township in which such section 16 is situated.

The Trustee shall provide such janitor help as may be deemed necessary to properly care for the schools and premises under their control, who shall be paid from the special school fund.

Note: Only four townships in the State have congressional school lands that have not been sold.—Editor.

UNITED STATES FLAG.

(Acts 1911, p. 453, Secs. 6413-6414.)

192. Duty to have display of U. S. flag. On the petition of a majority of the patrons of any school the Trustee shall procure a United States flag not less than six feet in length.

The Trustee shall cause the United States flag to be displayed upon every public school building under his control on every day such school is in session, the weather conditions permitting. The Trustee shall establish rules and regulations for its proper care and custody and display of the flag, and when for any cause it is not displayed, it shall be placed conspicuously in the principal room or assembly hall of the school building.

(Sections 6415-6516.)

193. Penalty for mutilation of U. S. flag. It is declared a misdemeanor to destroy or mutilate any flag owned by a school corporation, or to mutilate a flagstaff, and the offense is punishable by a fine of not less than \$25, and not more than \$100 for the second offense.

TEACHERS' REPORT.

(Acts 1865, p. 3, Sec. 6424.)

194. Required to retain 25 per cent. of teachers' pay. To enable Trustees to make the reports required by the law, covering statistics relating to schools, it is required that the teachers of such schools shall, at the expiration of the term of his or her school, furnish such complete report to the Trustee.

Until such report shall have been filed by the teacher with the Trustee, he shall not pay the teacher more than 75 per centum of the wages of such teacher.

TRUSTEE'S REPORT TO COUNTY SUPERINTENDENT.

(Acts 1883, p. 119, Sec. 6425.)

195. August report for year ending July 31st. The school year ends with July 31 of each year. The Trustee is required to file his annual report, on the first Monday in August, with the county superintendent. This is made up from the teachers' statistical reports to the Trustee, and shall embrace the following: The number of districts; schools taught, and their grades; teachers, males and females; average compensation of each grade; balance of tuition revenue on hand at the commencement of the current year; amount received during the year from the county treasurer, and amount expended within the year for tuition; and balance on hand; length of school taught within the year, in days; schoolhouses erected during the year; the cost of the same; the number and kind before erection, and the estimated value thereof, and of all other school property; number of volumes in the library, and the number taken out during the year ending the 31st day of July; also the number of volumes added thereto; assessment on each one hundred dollars of taxable property, and on each poll of special tax for schoolhouse erection, and amount of such levy; balance of special school revenue on hand at the commencement of the current year; amount received during the year from the county treasurer; the amount of said revenue expended during the year, and balance on hand; the number of acres of unsold congressional school lands, the value thereof, and the income therefrom; together with such other information as may be called for by the county superintendent and the superintendent of public instruction.

FAILURE TO REPORT.

(Acts 1865, p. 3, Sec. 6426.)

196. Penalty for failure to report—Duties of county superintendent and county auditor. Upon failure of the Trustee to file the reports re-

quired to be made and filed with the county superintendent at the time and manner when due, the superintendent shall, within one week of the time the next semi-annual apportionment is to be made by the county auditor, notify such auditor, in writing, of the Trustee's failure.

Whereupon the auditor is required to diminish the apportionment of such township by the sum of \$25, and withhold from such delinquent Trustee the warrant for the money apportioned to such township until such delinquent report is duly made and filed.

The board of commissioners may sue the delinquent Trustee on his bond, for the \$25 and any additional damages to the township.

SCHOOL PROPERTY.

(Acts 1865, p. 3, Sec. 6609.)

197. Title of all lands to be conveyed to the township. The title to all lands acquired for school purposes shall be conveyed to the township, incorporated town, or city for which it is acquired, in the corporate name of such township, town or city, which is used for school purposes, for the use of common schools therein. In all cases in which the title to any such land is vested in any other person or corporation than as above provided, it shall be the duty of the Trustee, for school purposes of the township, town, or city, to procure the title to be vested as in this section provided.

SCHOOLS—DONATION AND BEQUESTS.

(Acts 1877, p. 126, Sec. 6624-6627.)

198. Duty of Trustee upon donation exceeding \$5000. Under the provisions of act 1877, whenever any person shall give or bequeath any sum of money exceeding \$5,000 for the purpose of erecting a public school building, or seminary in any unincorporated town, with the implied or expressed condition, that an amount equal thereto shall be raised by the citizens of such town or township for a like purpose, upon petition of a majority of the legal voters of such township, the Township Trustee shall be authorized to issue the bonds of such township, in anticipation of a revenue derived from a special tax.

(Sections 6624-6627.)

199. Proof of signatures—Bond issue—Full record of proceedings. The Trustee shall require proof, by affidavit, that the signatures to the petition are genuine and that a majority of the legal voters have signed the same.

Such bonds shall bear a rate of interest not exceeding seven per cent. per annum, payable within seven years from their date of issue, and shall not be sold for less than 95 cents on the dollar.

A full record shall be made of the petition and all proceedings of the issue and sale of such bonds.

OATHS.

(Acts 1865, p. 3, Sec. 6669.)

200. All school officers empowered to administer. All school officers are authorized and empowered to administer all oaths relative to school business appertaining to their respective offices.

SCHOOLS—BOOKS FOR THE POOR.

(Acts 1891, p. 99, Sec. 6341.)

201. When Trustee shall furnish school books. Township Trustees are required to furnish the necessary school books to all such poor and indigent children desiring to attend school as in his opinion would be otherwise unable to attend school.

Note: It is believed that this section is superseded by Section 9 of the Compulsory Education Act, Section 202, this book.

(Acts 1912, p. 622, Sec. 6683.)

202. When assistance is to be furnished—Compulsory education. Under Sec. 9, of the compulsory education law of 1913, it is provided:

If any parent, guardian, or other person having control or charge of any child, who is subject to the provisions of this act, does not have sufficient means to furnish such child with books and clothing necessary to the attendance upon school, then the school corporation where such child resides shall furnish it, temporary aid for such purpose, which aid shall be allowed and repaid to such school corporation upon the certificate of the executive officer of such school corporation, by the township overseer of the poor in the manner provided by law for the relief of the poor. Such certificate shall be accompanied by such information as will enable the overseer of the poor to make the reports required by law governing the relief of the poor.

SCHOOL BOOKS—SALES.

(Acts 1913, p. 658, Sec. 6355.)

203. When Trustee may act as depository of school books. Under the amended act 1913, it is the duty of the county superintendent to appoint some responsible dealer or merchant in the county to act as depository of school books for the ensuing year. Such depository dealer shall contract to carry a sufficient number of the adopted books to supply the trade in the county, and to sell the same at the contract price, except to other dealers or merchants, to whom the depository merchant shall sell the books, for cash at a discount of 10 per cent. from such price.

Such depository merchant shall give to the publishers satisfactory evidence of his financial responsibility, or shall furnish surety bond covering the estimated sales for the year, whereupon the contractor or publisher shall sell to the said depository merchant all books ordered by him at a discount of 15 per cent. from contract price, payment to

be made by dealer within 60 days from date of shipment. The contractor is required to deliver shipments at nearest rail or river point, freight paid.

The depository merchant shall annually in July, ascertain from county superintendent and local dealers the probable number of books to be needed for the ensuing year, and shall order same from the contractor by the first day of August, and when received shall notify the local dealers and merchants desiring to handle the school books.

The amended act also provides that the county superintendent shall at any time on the request of the Township Trustee, appoint him as a depository merchant or dealer for the sale and distribution of school books, and in such case the Trustee, in his capacity as depository merchant or dealer shall conform in all respects to the provisions of this act as they apply to any other depository merchant or dealer appointed by the county superintendent.

SCHOOL BOOKS—DUTY OF TRUSTEE.

(Acts 1893, p. 165, Sec. 6360.)

204. Trustees must see that dealers have ample supply. It is the duty of the Township Trustee to see that there is a sufficient supply of text books in the hands of dealers, or designated depositories, to supply the patrons and pupils of all needed books.

SCHOOL BOOKS—EMBEZZLEMENT.

(Acts 1893, p. 165, Sec. 6364.)

205. Failure of trustee to make accounting. Any Township Trustee, who shall fraudulently fail or refuse, at the expiration of his term, to account for and pay over to any person entitled to receive the same, all money and school books not previously accounted for, which may have come into his hands, shall be deemed guilty of embezzlement, and upon conviction shall be imprisoned from one to five years, and fined not to exceed \$1,000, and rendered incapable of holding any office of trust and profit for any determinate period.

TOWNSHIP DEFICIENCY.

(Acts 1905, p. 34, Sec. 6435.)

206. Procedure to procure assistance, for tuition purposes. Whenever any Trustee of a township or Board of Trustees of any school town shall ascertain that there is not a sufficient amount of tuition revenue in his or their hands to enable him or them to maintain the public schools therein for the minimum term now or hereafter provided by law in such current school year, he or they, as the case may be, shall certify in writing under oath such fact to the county superintendent of his or their county, stating therein the rate of the levy for local tuition purposes on each one hundred dollars, and the taxes on each taxable poll made for the supplementary tuition tax by such township or school town in the year immediately previous to the school year in which such deficiency occurs, or will occur; also,

stating the full amount received for tuition from each source, the names and number of teachers employed, the rate per diem paid them, the number of days each has taught and when he began teaching, and an estimate of the amount that will be necessary over and above the tuition revenue then on hand to complete such legal minimum term of all the public schools in such school corporation. Said certificate shall be executed in duplicate. Said county superintendent shall immediately examine such certificate, and if he shall find the facts stated therein to be true, and shall further find that such school corporation has levied the highest amount authorized by law for such school municipality as supplementary tuition tax for the year in which such deficiency will occur, he shall forward one of such certificates to the state superintendent of public instruction, together with the result of his examination, and with the name and postoffice address of such Township Trustee or the treasurer of such school corporation.

DEFICIENCY, 25 CENTS LEVY FOR TUITION PURPOSES.

(Acts 1907, p. 449, Sec. 6436.)

207. Local requirements so as to procure "deficiency" money. No such Township Trustee or treasurer of such school town shall be entitled to draw or receive the funds provided in this act unless said Township Trustee or School Board of Trustees has levied a local tuition tax of at least twenty-five cents on \$100.00 of taxable property in such township or school town: And providing, That where any such School Trustee or corporation is maintaining a seven months' term of school and finds the amount of tuition revenue insufficient for such purpose, such Trustee or the treasurer of such school corporation shall be entitled to draw or receive the funds provided in this act in the event only such Trustee or school board has levied a local tuition tax of not less than forty cents on \$100.00 of taxable property in such township or school town.

DEFICIENCY—USES OF FUND.

(Acts 1905, p. 34, Sec. 6437.)

208. How "deficiency" money received shall be used. The Township Trustee or School Board of Trustees shall use the amount so received from the State for the payment of the salaries of teachers employed in his township or their town to enable him or them to maintain schools therein for the full term as required by law during the year for which it was received, and shall use it for no other purpose.

DEFICIENCY—LIABILITY FOR FUND.

(Acts 1905, p. 34, Sec. 6438.)

209. Trustee's liability for "deficiency" money. The Township Trustee, or treasurer of any town school board and the sureties on their bonds receiving such funds from the State, shall be liable for the same as for any other township or school funds they may receive in an official capacity.

ENUMERATION OF SCHOOL CHILDREN.

(Acts 1895, p. 127, Sec. 6447.)

210. Annual enumeration—Ages 6 to 21 years. School Trustees are required between the 10th day and 30th day of April, each year, to take, or cause to be taken an enumeration of all unmarried persons between the ages of six and twenty-one years.

The enumerator shall take an oath or affirmation to take the same accurately and truly to the best of his skill and ability, which oath shall be made a matter of record in the office of the School Trustee.

The duties of the enumerator are various, and reference to the act should be had to insure a proper report.

The act provides that such enumerator shall be allowed a reasonable compensation per diem for his services, to be paid by the Township Trustee out of his special school fund. Such employment must be made by the day.

Note: If the enumeration is taken by the Trustee himself, he receives his per diem as Trustee only, which is paid from the township fund.

(Acts 1913, p. 624, Sec. 6685b.)

211. Duties of enumerators. Under the compulsory education act of 1913, it is provided:

In order that the provisions of the compulsory education act may be more definitely enforced, it is provided that the enumerators of school children, in taking the annual school census shall ascertain and record the place and date of birth of every child enumerated, and the parent, guardian, or other persons having control or charge of such children, shall subscribe and take oath or affirmation that such record is true to the best of his information, knowledge, or belief. The enumerator is hereby empowered to administer such oath or affirmation and any parent, guardian, or other person having control or charge of children, who shall refuse to take such oath or affirmation, unless the refusal be based upon the want of knowledge, information, or belief, shall be adjudged guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than one dollar (\$1.00).

(Acts 1913, p. 624, Sec. 6685c.)

212. Information for the attendance officer. Section 14 of the act requires of the Trustee that: On or before the first day of each school year he shall furnish the attendance officer thereof with the names of the children, subject to the provisions of this act, who are enumerated in the regular enumeration lists. These names shall be alphabetically arranged, and such official shall give to the attendance officer all information contained in the regular enumeration returns concerning the children so listed. The county and each school corporation, shall provide its own attendance officers with the necessary postage and such blanks as may be required by the state board of truancy or the state superintendent of public instruction pertaining to the due execution of the duties of such attendance officers.

COUNTY SUPERINTENDENT'S ENUMERATION.

(Acts 1873, p. 68, Sec. 6397.)

213. County superintendent makes on failure of Trustee—At Trustee's cost—May 1st. Whenever the Township Trustee shall neglect to file enumeration of school children of his township as required by law, it becomes the duty of the county superintendent, immediately after May 1st, in each year, to employ some suitable person to take the same, and to allow a reasonable compensation for such services, payable from the special school fund of such township.

The superintendent shall proceed to recover the same in the name of the State by action against the Trustee in his individual capacity and in such suit the superintendent shall be a competent witness.

ENUMERATION—WHERE FILED.

(Acts 1873, p. 68, Sec. 6463.)

214. When incorrect superintendent may have retaken. Each Township Trustee and the president of the board of School Trustees of towns and cities shall, on or before the first day of May, annually, report to and file with the county superintendent of the proper county, a copy of the enumeration for school purposes in his township, town or city, with a list of transfers to such township, town or city, with his affidavit endorsed thereon to the effect that the same is, to the best of his knowledge and belief, full and accurate and taken in accordance with the provisions of the law governing the enumeration. When said county superintendent, however, on an examination of the enumeration returns of any township, town or city, finds any evidence that the enumeration is excessive in number or in any other way incorrect he may require the same to be retaken and returned, and if he deem it necessary he may, for this purpose, appoint persons to perform the service, who shall take the same oath, perform the same duties, and receive the same compensation out of the same funds as the person or persons who took the enumeration in the first place, and the school revenue shall be distributed to such school corporation upon the corrected returns.

SCHOOL TRANSFER OF PUPILS.

(Acts 1909, p. 173, Sec. 6449.)

215. Reasons for a transfer—Duties of Trustee. Whenever any child, resident in one school corporation of the State, may be better accommodated in the school of another school corporation, the School Trustee, Board of School Trustees or commissioners of the school corporation in which such child resides shall, upon application of the parent, guardian or custodian of such child, made at any time, grant an order of transfer which shall entitle such child to attend the schools of the corporation to which such transfer is made under the conditions hereinafter prescribed: Provided, That in determining whether a child can be better accommodated in the schools of another school corporation than that in which such child resides, such matters as to the proximity of the schools of the township and city to the residence of

such child desiring the transfer; the kind and character of the roads to each; the means of transportation, if any, to each; the crowded conditions of the schools in either of the two school corporations shall be pertinent: and, Provided, further, That the desire to attend a commissioned or accredited [certified] high school, when no such school is maintained in the resident school corporation, or when in attending such commissioned or accredited high school the living expenses can be more advantageously provided for in another school corporation, or when such commissioned or accredited high school in another school corporation is more accessible, shall be deemed reasons for such transfer: and, Provided, further, That the provisions of this act shall be construed as applying in the same manner to resident pupils who are graduates from the eighth grade in the common schools of this State, or its equivalent, who may desire to attend a private school of the secondary rank, which having been duly approved by the state board of education, holds the same rank as a commissioned high school.

SCHOOLS—TRANSFERS OUTSIDE OF STATE.

(Acts 1911, p. 481, Sec. 6448a.)

216. When a transfer can be made outside of State. That, when-ever the children, resident in any school corporation of the State of Indiana may be better accommodated in the schools of another school corporation or district outside of the State of Indiana but adjoining such school corporation in Indiana, then the School Trustee, Board of School Trustees or commissioners of such school corporation in which such children reside, shall, upon petition of a majority of school patrons of such school corporation, grant orders of transfer to all children in such school corporation, between the ages of six and twenty-one years who may desire to attend school, to such school corporation or district outside of the State of Indiana; and for each child so transferred, such School Trustee of each township and the Trustees of each school town and school city shall pay to such foreign school corporation as a tuition fee for each pupil, a sum not exceeding two dollars per month for common school education, and a sum not exceeding four dollars per month for graded high school education, payable from the special fund of such school corporation: Provided, That such transfer shall not be made if a graded high school be situated within a distance of two miles of such school corporation within the State of Indiana: Provided, further, That no transfers shall be made until a satisfactory written contract shall be executed by such school corporation and such foreign school corporation or proper school authority.

TUITION FOR TRANSFERRED PUPILS.

(Acts 1915, p. 35, amending Sec. 6450.)

217. Tuition for transferred pupils—How reckoned. If such transfer is granted, the School Trustee or Board of School Trustees, or commissioners of the school corporation in which such child resides, shall pay out of the special school fund, or out of the township fund

or out of the tuition fund at his discretion, to the School Trustee, Board of School Trustees or commissioners of the school corporation to which such child is transferred, as tuition for such child, an amount equal to the annual per capita cost of education in the corporation to which said child is transferred; or such a part of it as the term of enrollment of said child in the schools of the creditor corporation may require: Provided, That the per capita cost in high schools shall be calculated upon the basis of expenditures for high school purposes, and the per capita cost in grade schools shall be calculated upon the basis of expenditure for the schools below the high school: Provided, That in case the corporation transferring said child maintains a school, or schools, of like grade to which said child is transferred, the rate of tuition shall in no case exceed the per capita cost in said school, or schools, maintained by the corporation which transfers such child. In calculating the per capita cost, only expenditures for the current year, not including permanent improvements and additions, shall be counted and shall be based on the following items: Salaries of instructors, supervisors and superintendent, salary of janitor, fuel and light, printing and laboratory supplies.

TRANSFERS—TIME FOR PAYMENTS.

(Acts 1901, p. 448, Sec. 6452.)

218. Auditor acts as arbiter—Disputes as to transfers—Time of payment. February 1st and July 30th, of each year are the dates on which the indebtedness for tuition for transferred children shall be due and payable between school corporations.

If any School Trustee refuses to make such settlement, the matter shall be referred by the creditor Trustee, in writing, to the county auditor who has the power to hear and determine the same.

Note: It is believed that this section is repealed. Acts 1907, p. 221. Section 6454 Burns' R. S., Section 220, this book, now governs the payment for transfers.

TRANSFER—APPEAL TO SUPERINTENDENT.

(Acts 1901, p. 448, Sec. 6451.)

219. When transfer denied—Appeal—Rights of parent or guardian. If an order of transfer of a child be denied, the parent, guardian or custodian of the child shall have the right to appeal the case to the county superintendent of schools whose decision in the matter shall be final.

TRANSFERS—SETTLEMENTS.

(Acts 1909, p. 331, Sec. 6454.)

220. Settlements between corporations—In June—How paid. Any School Trustee, Board of School Trustees or commissioners of any school corporation which shall receive transfer of children from another school corporation, shall on or before the third Monday in June of each year, file with the School Trustee, Board of School Trustees or commissioners of the school corporation in which such transferred child

or children reside, a complete statement showing all of such transfers, giving the name of each child and the school corporation from which each child was received, together with a statement of the attendance of each child so transferred and the amounts due to the corporation to which such transfer has been made because of the same, and also a certified statement of the annual per capita cost of maintaining the school or schools which such transferred child or children attended during the year. The School Trustee, Board of School Trustees or commissioners of the school corporation from which said child or children were transferred shall pay out of the special school fund or out of the township fund, or out of the tuition fund, of his corporation, at his discretion, to the School Trustee, Board of School Trustees or commissioners of the school corporation to which such child or children were transferred, on or before the 1st day of August next following the receipt of the aforesaid statement of the amount of tuition thus due and in the event of failure to pay said tuition when due, a penalty of ten per cent. shall attach from and after the 1st day of August of the year in which such tuition is due: Provided, That the School Trustee, Board of School Trustees or commissioners of any school corporation now indebted to any other school corporation on account of the transfer of any child or children, are hereby authorized to, and they shall pay such indebtedness out of the special school fund now belonging to the corporation so indebted, and not otherwise appropriated.

TRANSFERS—TO CORPORATION OF 100,000.

(Acts 1901, p. 513, Sec. 6455.)

221. Transfers when made to Indianapolis. Whenever a child shall be transferred for school purposes from a township school to a school city containing 100,000 or more inhabitants (Indianapolis) and the parent, guardian or custodian of such child shall be a taxpayer of such city, the amount of tuition to be paid by the Trustee to such school city, on account of such transfer, shall be reduced to the extent of the current school taxes that shall be levied against such parent, guardian or custodian by such school city.

PAYMENT FOR TRANSFER.

(Acts 1865, p. 3, Sec. 6457.)

222. How payment for transfer is made. Each person so transferred, for educational purposes, to a township, town or city in an adjoining county, shall annually pay to the treasurer of such township, town or city (when a tax is levied therein for the purposes aforesaid) a sum equal to the tax levied, computing the same upon the property and poll, liable to tax, of such persons in the township, town or city where he resides, according to the valuation thereof by the proper assessor, which payment shall release his property from special school tax in the township in which he resides. In default of such payment he shall be debarred from educational privileges in the township, town or city to which he may have been transferred, and the Trustee thereof shall

notify the Trustee of the township, town or city in which he (the person transferred) resides, of such exclusion.

Note: Evidently this section applies only to cases where the parent or patron is transferred as provided by Section 6448 Burns' R. S.

TRANSFERS—ORPHANS' HOMES.

(Acts 1907, p. 310, Sec. 6458.)

223. Duty of trustees—Children from orphans' homes. All dependent children in orphans' homes or custodial institutions for dependent children shall be educated by the Trustee or school board in which the institution is located.

Any authority which has the placing of such child in such home, or institution, shall immediately give notice to the school authority from whence such child had legal settlement. Such Trustee or school board shall issue a transfer certificate for each dependent child in such home and send the same to the proper school authority where the home is located.

(Acts 1911, p. 332, Sec. 6685e.)

224. Requirement of transfer for pupils in charitable, correctional and training schools. Under a subsequent act (1911) all institutions conducting a correctional, charitable, educational or training school are prohibited from accepting any child between the age of six and twenty-one as an inmate, unless a school transfer issued by the proper school officer accompanies the admission of such child. Such transfer shall be binding so long as the child remains in such institution.

Section 2 of the act provides for the compulsory education of all inmates of such institutions who are of school age unless physically or mentally disqualified. Any institution that violates this requirement is guilty of a misdemeanor, and is finable not more than \$25, for each offense.

TRANSFERS—ORPHANS' HOMES—PAYING TUITION.

(Acts 1903, p. 15, Sec. 6459.)

225. How payment for tuition is made—Pupils from orphans' home. The school corporation in which such child has settlement shall pay out of the special school fund of said corporation to the school corporation in which said institution is located, as tuition for said child, an amount equal to the annual per capita cost of education, in the corporation to which said child is transferred, or such a part of it as the child or children are actually school residents of the corporation to which they were transferred: Provided, That the rate of tuition per month shall not exceed one dollar and fifty cents. In calculating the per capita cost, only expenditures for current year, not including permanent improvements and additions, shall be counted.

Note: It is evident that this section means that payment should be made pro rata for the time the child is enrolled.

TRANSPORTATION—CENTRALIZED SCHOOL.

(Acts 1911, p. 647, Sec. 6423a.)

226. Transportation, non-resident pupils — Centralized school. Where a township has established a centralized school and has provided transportation to such school, it shall be the duty of the Trustee, where additional wagons are not needed, or an additional distance is not required, to furnish transportation to all pupils from adjoining townships who have been transferred to such school.

The Trustee having charge of the school from which such children have been transferred shall pay to the other Trustee an amount equal to the per capita cost of transportation of the pupils of such township.

SCHOOLS—TRANSPORTATION OF PUPILS—PAYMENT OF EXPENSE.

(Acts 1913, p. 655, Sec. 6423.)

227. Transportation—Discontinued school—Drivers furnish teams —Special school fund. It shall be the duty of the Township Trustees to provide for the education of such pupils as are affected by such or any former discontinuance in other schools, and they shall provide and maintain means of transportation for all such pupils that live at a greater distance than two (2) miles and for all pupils between the ages of six (6) and twelve (12) that live less than two (2) miles and more than one (1) mile from the schools to which they may be transferred, either within the township or in an adjoining township or school corporation, as a result of such discontinuance. In all townships where a school has been abandoned under the provisions of this act, the Trustee shall provide for the transportation of all pupils of any other school of such township who live more than two (2) miles and all pupils between the ages of six (6) and twelve (12) that live more than one (1) mile from the school to which they are attached, whenever a majority of the patrons of such school petition the Trustee to provide such transportation. Such transportation shall be in comfortable and safe conveyances. The drivers of such conveyances shall furnish the teams therefor, and shall use every care for the safety of the children under their charge, and shall maintain discipline in such conveyances. Restrictions as to the use of public highways shall not apply to such conveyances. The expenses necessitated by the carrying into effect of the provisions of this act shall be paid from the special school fund.

SCHOOLHOUSE, WHEN SOLD.

(Acts 1865, p. 3, Sec. 6615.)

228. Procedure for sale of schoolhouse—Conveyance. The proper Trustee may, whenever a schoolhouse shall have been removed to a different location, or a new one erected for the school in a different place, if the land whereon the same is situated belongs unconditionally to the township, town or city, sell the same, when, in his opinion, it is

advantageous to the township, town or city, so to do, for the highest price that can be obtained therefor; and upon the payment of the purchase money to the township, town or city treasurer, he shall execute to the purchaser a deed of conveyance, which shall be sufficient to vest in such purchaser all the title of such township, town or city thereto. The money derived from such sale shall be a part of the special school revenue.

Note: For sale of property of civil township, see Acts 1915, p. 91, Section 142, this book.

SALE OF SCHOOL PROPERTY.

(Acts 1907, p. 575, Sec. 6616.)

229. Sale of school property by Trustee—Petition—Appraisal—Newspaper publication—Special school revenue. In all cases where school properties have not been used and occupied for school purposes for a period of two years, or are unnecessary by reason of the construction of other schoolhouses, and the said school property shall belong unconditionally to the township, the proper Trustee may upon petition signed by two-thirds (2-3) of the qualified voters of the school district wherein said property is situated, sell the same for the highest price that can be obtained therefor, but not less than two-thirds of its appraised value, and upon the payment of the purchase money to the Township Trustee, he shall execute to the purchaser a deed of conveyance, if of real estate, and a bill of sale if of building or buildings, which shall be sufficient to vest in such purchaser all the title of such township thereto. Such sale shall be made only after said property has been duly appraised by three disinterested householders of the neighborhood, as other property is required to be appraised, and the publication of notice of the sale thereof for three successive weeks in a newspaper of general circulation printed and published in the township, if any, otherwise in such paper printed and published in the township nearest thereto, and by posting five (5) notices of such sale in the township, three of which shall be in the district wherein said property is situated, at least three weeks prior to the date of such sale. The money derived from such sale shall be a part of the special school revenue and shall be duly recorded and accounted for by such Trustee.

Note: See note under Section 228, this book.

REMOVAL AND RELOCATION OF SCHOOLHOUSES.

(Acts 1893, p. 17, Sec. 6417.)

230. Superintendent's power, and duties therein. Whenever it becomes necessary for the Trustee to change and re-establish the site of any school building and remove the buildings to a new site and location, the Trustee must present his petition therefor signed by himself and by a majority of the patrons of such school to the county superintendent, together with proof that the petition is signed by such majority. Such petition should set forth the place and particular point to which it is desired to change and relocate the school site, and

the reasons for the proposed change. The Trustee shall not change the school site until the superintendent shall have issued an order granting such change.

(Acts 1893, p. 17, Sec. 6418.)

231. Trustee's duties on petition to remove schoolhouse. Before the county superintendent shall grant such order the Trustee shall file with that officer his affidavit that he has caused notice to be given of such petition, the purposes thereof, and the place of the change of location of such school building, and the time the same will be presented to such county superintendent, by posting notices in five public places in his township, three of which shall be in the immediate neighborhood from where the school building is to be removed, at least twenty days before the hearing by the county superintendent.

(Act 1893, p. 17, Sec. 6419.)

232. Penalty for unlawfully removing a schoolhouse. Any Trustee violating any provisions of the act shall be guilty of a misdemeanor, and shall be fined not less than \$50 nor more than \$500.

ABANDONMENT OF SCHOOLS.

(Acts 1901, p. 159, Sec. 6420.)

233. Abandonment upon petition. Trustees shall not abandon any district school in his township until he shall have first procured the written consent therefor signed by a majority of those legal voters who are entitled to vote for Trustee in such district.

This rule does not apply to such schools which have an average attendance of twelve pupils, or fewer.

It becomes the Trustee's duty to re-establish any abandoned district school upon the written petition of two-thirds of the legal voters, who are entitled to a vote for Township Trustee.

Note: This section must be construed with Section 6422 Burns' R. S., Section 235 this book.

(Acts 1901, p. 437, Sec. 6421.)

234. When abandoned school shall be consolidated with another school. Whenever a majority of the legal voters of any school district shall petition the Trustee for the abandonment of their school and the consolidation of the school with the school of another school district of the township, it shall be his duty to comply with the petition, and to provide for the education of the children of the abandoned district in other schools, as asked for in the petition.

SCHOOLS—DISCONTINUANCE.

(Acts 1909, p. 73, Sec. 6422.)

235. When Trustee may discontinue temporarily—Re-establishment. Trustees shall discontinue and temporarily abandon all schools under their charge at which the average daily attendance during the last preceding year has been twelve pupils or fewer, and may likewise tempo-

rarily abandon a school where the daily average for last preceding school year has been fifteen pupils or fewer, provided that the conditions as to roads, streams and bridges permit such temporary discontinuance.

Such school may be re-established by the Trustee, in his discretion, whenever he feels assured of the daily average attendance of more than twelve pupils.

Nothing in the act shall authorize the discontinuance of a school exclusively for colored pupils, and any so discontinued shall be re-established.

Upon petition of a majority of patrons, any school so abandoned shall be re-established by the Trustee.

Note: This section must be construed in connection with Sections 6420 and 6421, Sections 233 and 234 this book.

DISSOLUTION—SCHOOL IN INCORPORATED TOWN.

(Acts 1915, p. 199, amending Sec. 6480.)

236. How to determine equitable right of township. Any incorporated town in the State, that has no school indebtedness, the inhabitants of which do not exceed two thousand (2,000), as shown by the last preceding general census, may, through its town Board of Trustees, abandon and discontinue its management and control of public schools within such incorporated town, and abolish the Board of School Trustees therein. Whenever a town so discontinuing its Board of School Trustees shall desire to again take control of its school affairs the town board may on petition signed by a majority of the resident freeholders, pass an ordinance to that effect and appoint a board of School Trustees: Provided, That whenever a town passes such ordinance to again take control of its school affairs as herein above provided, it shall be the duty of the county assessor, county auditor and county superintendent of schools, to act as an appraising board to determine what if any equitable right the township has in the school property thus taken over and to determine the extent to which such town is indebted to the township, and the Board of Town Trustees shall pay over to the township such amount as has been so determined; before said town shall be permitted to take over the schools: Provided, further, That such school property shall not be appraised and taken over by the town as above provided unless a majority of the resident freeholders in the township residing outside of said town, consent to such transfer: Provided, further, That no town board shall dissolve the school corporation except by consent of a majority of the freeholders therein.

CONVEYANCE OF PROPERTY TO TOWNSHIP.

(Section 6480a.)

237. Dissolution of school in incorporated town—Deed made to the township. The town Board of Trustees of any such incorporated town, upon deciding to abandon and discontinue the control of the public schools therein, shall make or cause to be made a good and sufficient

deed, conveying all real estate belonging to such school town to the Township Trustee of the township in which such incorporated town is located; and shall transfer all the personal property and fixtures belonging to such school town to such Township Trustee, all of which shall be accepted and held by such Township Trustee for the use and purposes of the school township wherein such town is located: Provided, That when any such incorporated town shall be located in two or more contiguous counties, the children of school age who are residents of such incorporated town shall be entitled to the same school privileges in such incorporated town as the children of school age who are residents, exclusively of the township which has assumed ownership and control of such school and school property. And all school revenue which is paid or which may hereafter be paid by that portion of such incorporated town lying outside of the township which has assumed control and ownership of such school and school property, shall be paid to the Township Trustee of the township wherein such school is located, in the same way and manner as such revenues were paid to the School Trustees of such incorporated town before such town relinquished control and possession of such school and school property.

TOWNSHIP CONTROL.

(Section 6480b.)

238. Trustee controls schools in town, when dissolved. After the requirements set forth in the preceding section are complied with, the Township Trustee shall have full and complete control of all the schools within such town and shall conduct the same as provided for by law for the other schools of such township. And all children of school age residing outside of the township in which such school and school property is situated but within the limits of any such incorporated town, as herein provided, shall possess all the rights and privileges to attend the school or schools located within such incorporated town, the same as though they lived in the township wherein such school or school property is located.

COUNTY AUDITOR'S APPORTIONMENT.

(Acts 1873, p. 80, Sec. 6475.)

239. Two distributions of taxes each year by auditor. The Trustees receive two apportionments, made by the county auditor, each year, to wit: The last Monday in January and the second Monday in July.

These embrace moneys derived from taxation, interest of congressional school fund, and the per capita common school revenue apportioned by the state superintendent of public instruction.

SCHOOL DIRECTOR.

(Acts 1865, p. 3, Sec. 6589.)

240. Election annually first Saturday in October—Removal—Appointment. Voters shall meet on the first Saturday in October and

elect one of their number as school director. He shall notify the Trustee of such election within 10 days and take an oath of office.

In case of failure to elect, the Trustee shall forthwith appoint the school director for such school district, so failing.

The school director can be removed upon a petition of three-fourths of the persons attached to the school, who are entitled to vote at school meetings.

(Acts 1873, p. 68, Sec. 6590.)

241. Duties of school director—School meetings. The school director acts as the organ of communication between the inhabitants and the Township Trustee. He shall preside at all school meetings and keep a record of the proceedings.

Such meetings shall have the power to determine any additional branches to be taught in such school; the time at which school shall be taught, provided that the school revenues shall be expended within the year for which they were apportioned; to petition the Trustee for such repairs as are deemed necessary in their schoolhouse; to petition the Trustee for the removal of their schoolhouse to a more convenient location; to petition for the erection of a new schoolhouse, and the sale of an old one and the lands belonging thereto, and upon any other subject connected therewith.

At such meetings all taxpayers, except married women and minors, are entitled to vote.

However, nothing in the act prevents the Trustee from exercising a sound discretion as to propriety or expediency of complying with the prayers of the petitioners, and the cost thereof.

When the petition embraces the subject of repairs, the removal or erection of a schoolhouse, an estimate of the cost thereof shall be furnished to the Trustee.

The school director shall take charge of the schoolhouse and property belonging thereto, under the general order and concurrence of the Trustee, and shall preserve the same.

Note: This section should be construed in connection with the advisory board law, and in case of conflict the later law governs.

(Acts 1865, p. 3, Sec. 6606.)

242. Power to exclude pupil temporarily. The school director shall visit and inspect the school from time to time, and when necessary may exclude any refractory pupils therefrom, but such exclusion shall not extend beyond the current term, and may in the director's discretion be for a shorter period.

(Section 6607.)

243. Appeal to trustee of suspended pupil. The decision of the director in excluding a pupil shall be subject to an appeal to the Township Trustee, whose decision shall be final.

SCHOOLHOUSE IN ANNEXED TERRITORY.

(Acts 1893, p. 194, Sec. 6611.)

244. Annexation to incorporated town or city—Conveyance of school property. Whenever there has been, or may hereafter be, by proper proceedings, any territory annexed to any city or incorporated town of this State, which territory included within such boundary as annexed any real estate which, prior to such annexation, was the property of the school township adjoining such town or city, and used for school purposes by such school township, such real estate shall, by virtue of such annexation, at once become in fee simple the property of the school corporation of such town or city within the corporate boundaries of which it is found after such annexation of territory, and it is hereby made the duty of the Township Trustee to at once execute and deliver to the school corporation of such town or city a deed conveying such title as his school township has for all school property which has passed, by such proceedings, from the territorial jurisdiction of the township to that of a town or city.

ANNEXATION OF SCHOOL TERRITORY—LIABILITY FOR SCHOOL DEBTS.

(Acts 1913, p. 101, Sec. 6612.)

245. Liability for debts. In all cases where any city or incorporated town of this State shall hereafter annex any territory, or where any town shall be hereafter incorporated in which territory so annexed or incorporated there shall be the property of any school township used by such school township for school purposes, and such school township shall be at the date of such annexations, indebted either for the purchase of said school property, or for buildings constructed thereon, it shall and is hereby made the duty of the school corporation of such city or incorporated town to pay such indebtedness, and such school corporation is hereby declared to be and made liable therefor. Until such city or town school corporation shall have paid such indebtedness, it shall not be entitled to a deed therefor, and if such indebtedness is paid by said school township, such school township shall be entitled to recover the amount so paid from said city school corporation with interest at the rate of six per cent. per annum from date of payment, and on payment of such amount the said school corporation shall be entitled to a deed of such property as now by law provided. Whenever any annexation of such property has been made prior to the passage of this act and subsequent to the passage of the act of which this is amendatory, then liability on the part of such annexing city or town for any such indebtedness remaining unpaid at the time of the passage of this act, shall be under this act the same as if such annexation had taken place subsequent to the passage of this act.

(Acts 1915, p. 570.)

245a. Liability for civil debts. In all cases where any city or incorporated town of this State has annexed or shall hereafter annex any

territory, or where any town has been or shall hereafter be incorporated, and where the civil township, from which such territory was or is taken, is indebted or has outstanding unpaid bonds or other obligations at the time of such annexation or incorporation of such territory, then such city or town, as the case may be, shall be liable for, and pay so much of such indebtedness of such civil township in proportion that the assessed valuation of property in such annexed or incorporated territory is to the valuation of all property in such township, as the same is assessed for general taxation, prior to the annexation of any such territory or incorporation of any such town. Such annexing city or town, or newly incorporated town shall pay such part or proportion of such unpaid indebtedness of such civil township to the Township Trustee: Provided, That in case such indebtedness consists of outstanding unpaid bonds or notes, of such civil township, then such payment to such Trustee shall be made at such time as the principal, or any part thereof, or interest of such bonds or notes falls or becomes due.

SITE FOR SCHOOLHOUSE—EMINENT DOMAIN.

(Acts 1907, p. 114, Secs. 6633-6636.)

246. Eminent Domain—Purchase of real estate—Circuit court. Whenever, in the opinion of the Trustees of school corporations of any city or town, or of the Township Trustee of any township in the State, it shall be considered necessary to purchase any real estate, on which to build a schoolhouse, or for any other purposes connected therewith, such Township Trustee or School Trustees, or a majority of them, may file a petition in the circuit court of said county, asking for the appointment of appraisers to appraise and assess the value of said real estate.

(Section 6634-6636.)

247. When Trustee may make tender, and how. The act outlines the duties of the appraisers who are appointed by the court, after a ten days' notice of the pendency of the petition, and provides that the court shall cause the land to be conveyed to the township, upon payment of the appraised value.

Before beginning the proceedings, a tender or offer may be made by the Trustee for the property to its owner of an amount deemed a reasonable value therefor, and if the appraisement is equal or less than the tender, then the cause shall be prosecuted at the costs of the owner. Where there is no tender, the action shall be at the cost of the petitioners.

SCHOOLS—SANITARY BUILDINGS.

(Acts 1915, p. 94, amending Sec. 6616a-e.)

248. 1913 law relative to sanitary school buildings. The requirements mentioned in the amending act, 1915, relative to the erection, or remodeling, thereafter, of sanitary schoolhouses are ample and embrace the subjects of, viz:

Sites,
Buildings,
Lighting and heating,
Blackboards and cloak rooms,
Water supplies and drinking arrangements,
Heating and ventilation, and
Water closets and out houses.

The specifications under each of the above heads are quite complete, and any Trustee before contracting for a new school building or remodeling one should procure the legal requirements through the state board of health at Indianapolis.

An act of 1911 also contains provisions touching duties of Trustees concerning infectious diseases which have had mention elsewhere.

USE OF SCHOOLHOUSE FOR PRIVATE SCHOOL.

(Acts 1865, p. 3, Sec. 6613.)

249. Use of schoolhouse for a private school. When a schoolhouse is unoccupied by a common school of the State, and the people who form the school at such house desire that a private school be taught therein, and a majority of them make application to the Trustee having charge of such house for the use of it for such private school, it shall be the duty of the Trustee to permit said schoolhouse to be used for such private school by such teacher as may be mentioned in the application, but not for a longer time than until said house may be wanted for a public school; and such permission and use shall be upon the condition that the teacher employed in said school shall report, in writing, to the Trustee—

First. The number of teachers employed, distinguishing between male and female.

Second. The number of pupils admitted into the school within the term, and the average daily attendance.

Third. The cost of tuition, per pupil per month, in said school.

USE OF SCHOOLHOUSE FOR OTHER PURPOSES.

(Acts 1859, p. 181, Sec. 6614.)

250. Use of schoolhouse for political and religious meetings. If a majority of the legal voters of any school district desire the use of the schoolhouse of such district for other purposes than common schools, when unoccupied for common school purposes, the Trustee shall, upon such application, authorize the director of such school district to permit the people of such district to use the house for any such purposes, giving equal rights and privileges to all religious denominations and political parties, without any regard whatever to the numerical strength of any religious denomination or political party of such district.

SCHOOLS—BUILDINGS USED FOR PUBLIC GATHERINGS.

(Acts 1913, p. 947, Sec. 6614b.)

251. Use of schoolhouse for public gatherings. Upon application of not less than one-half of the voters residing within two (2) miles of any schoolhouse or other public buildings or grounds, which are capable of being more widely used as public meeting places for non-partisan gatherings of citizens, for the presentation and discussion of public questions or for other civic, social or recreational activities, the Township Trustee or other authorities having charge of such schoolhouses, public buildings or grounds shall allow the use of such buildings or grounds for the open presentation and free discussion of public questions, and may allow the use of such buildings or grounds for such other civic, social and recreational activities as in the opinion of the controlling board do not interfere with the prime purpose of the building or grounds.

BUILDINGS TO BE LIGHTED AND HEATED.

(Section 6614c.)

252. Buildings to be lighted and heated. Where the citizens of any community are organized into a nonpartisan, nonsectarian, non-exclusive association for the presentation and discussion of public questions, the school board or other body having charge of the schoolhouses or other public properties which are capable of being used as meeting places for such organization, when not being used for their prime purpose, shall provide, free of charge, light, heat and janitor service, where necessary, and shall make such other provisions as may be necessary for the free and convenient use of such building or grounds, by such organization for weekly, biweekly or monthly gatherings at such times as the citizens' organization shall request or designate.

(Section 6614d.)

253. Use of to be free and gratuitous—Control. The school board or other board having charge of the schoolhouses or other public properties, may provide for the free and gratuitous use of the schoolhouses or other public properties under their charge for such other civic, social and recreational activities, as in their opinion do not interfere with the prime use of the buildings or properties.

(Section 6614e.)

254. Personal responsibility for damage—Refusal. The person or persons making application for the use of a schoolhouse or other public property for public meetings, shall be responsible for all damage to the property occurring at such meetings, ordinary wear and tear excepted, and upon failure of the responsible person or persons to respond in damages for any such injury to the property, the school board or other board in charge of the schoolhouse or other public property, may refuse all future applications for the wider use of the property until such injury is repaired, without expense to the board in charge of the property.

VOCATIONAL EDUCATION.

(Acts 1913, p. 37, Sec. 6641b.)

255. Establishment of schools—How maintained. Under Act, 1913, provisions are made for the establishment in townships of vocational schools, as follows:

Any school city, town or township may through its board of school trustees or school commissioners or Township Trustee, establish vocational schools or departments for industrial, agricultural and domestic science education in the same manner as other schools and departments are established and may maintain the same from the common school funds or from a special tax levy not to exceed 10 cents on each \$100 of taxable property, or partly from the common school funds and partly from such tax. School cities, towns and townships are authorized to maintain and carry on instruction in elementary domestic science, industrial and agricultural subjects as a part of the regular course of instruction.

(Section 6641d.)

256. When townships may join in maintenance. Two or more school cities, towns or townships or combinations thereof, may co-operate to establish and maintain vocational schools or departments for industrial, agricultural or domestic science education or in supervising the same, whenever the school board or Township Trustees of such school cities, towns or townships shall so determine and apportion the cost thereof among the cities, towns and townships co-operating. Whenever such co-operative schools or departments have been determined upon by any school cities, towns or townships, or combination thereof, the presidents of the school boards of the cities or towns and the Township Trustees of the townships co-operating shall constitute a board for the management of such school or department, such board may adopt for a period of one year or more, a plan of organization, administration and support for such school or department and the plan, if approved by the state board of education, shall constitute a binding contract between cities, towns and townships entering into a co-operation to support such schools and courses which shall be cancelled or annulled only by the vote of a majority of the school boards or Township Trustees of such school cities, towns or townships and the approval of the state board of education.

(Section 6641i.)

257. How advisory committees shall be appointed. Boards of education or Township Trustees administering approved vocational schools and departments for industrial, agricultural or domestic science education, shall, under a scheme to be approved by the state board of education, appoint an advisory committee composed of members representing local trades, industries and occupations. It shall be the duty of the advisory committee to counsel with and advise the board and other school officials having the management and supervision of such schools or departments.

(Sections 6641k and 6641o.)

258. Compulsory attendance—Fourteen to sixteen years—Reimbursement. In case the board of education or Township Trustee of any city, town or township have established approved vocational schools for the instruction of youths over fourteen years of age who are engaged in regular employment, in part-time classes, and have formally accepted the provisions of this section, such board or Trustee are authorized to require all youths between the ages of fourteen and sixteen years who are regularly employed, to attend school not less than five hours per week between the hours of 8 a. m. and 5 p. m. during school term.

Any school city, town or township having claims for reimbursement against the State under the provisions of this act shall present the same to the state board of education on or before July 1st of each year immediately following the completion of the work for which they are entitled to reimbursement from the State. The board shall if they approve the claim authorize its payment by the auditor of state who shall thereupon draw his warrant on the treasurer of state for the payment of the amount due such school city, town or township, from the fund provided in this act.

SCHOOLS—AGRICULTURE AND DOMESTIC SCIENCE.

(Acts 1913, p. 109, Sec. 6623h.)

259. Procedure for the establishment of—Petition—Levy. Whenever twenty-five (25) per cent. of the legal voters of any township, in the State of Indiana, wherein is situated a township high school, shall petition the Township Trustee, of such township, for the erection, construction and equipping of a room or building upon the grounds or real estate upon which such high school is situate, in which to teach and instruct the students of such township in the arts of agriculture, domestic science, or physical or practical mental culture, and in which to hold school or township entertainments, or to be used for township purposes, the Township Trustee, with the concurrence of the advisory board of such township, shall be authorized and empowered to provide such room or building, as may best suit such needs in such township, by erecting, building and equipping such room or building, as aforesaid, to meet the requirements and necessities therefor.

(Section 6623i.)

260. Buildings—Issue of bonds—Limitation. For the purpose of raising funds for the building and construction of such room or building, as is provided in section 1 of this act, the Township Trustee of such township is hereby authorized and empowered, with the concurrence and sanction of the advisory board of such township, to issue and sell the bonds of such township in an amount sufficient to pay for the construction and equipping of such room or building, and to levy a tax on the taxable property of such township in an amount sufficient to discharge and satisfy such bonds so issued and sold; provided, such bonds shall be in equal series, and shall fall due, one each year, for

a period of ten (10) years: Provided, further, That an amount not exceeding one (1) per cent. of the total amount of taxable property of any township may be used and expended for the purpose of carrying out the provisions of this act.

(Section 6623j.)

261. Duty of Trustee—Maintenance—Tax levy. The Township Trustee, of any township, in the State of Indiana, shall, by the provisions of the act being first complied with, shall cause such room or building to be constructed and equipped for the teaching and instruction of agriculture science, domestic science, physical culture, practical mental culture, or in which to hold any school or township entertainments, or for other township purposes, may, and he is hereby authorized and empowered to maintain such room or building, for the purpose aforesaid, and to make a levy of taxes, on the taxable property of such township, sufficient to raise the necessary funds with which to maintain such room or building, and to conduct therein the courses of instruction mentioned herein.

TEACHERS—EMPLOYMENT.

(Acts 1884, p. 30, Sec. 6592.)

262. Qualifications of teachers—Employment and dismissal. Trustees shall employ no person to teach in any of the common schools of the State of Indiana, unless such person shall have a license to teach, issued from the proper state or county authority, and in full force at the date of the employment. Any teacher who shall commence teaching any such school without a license, shall forfeit all claim to compensation out of the school revenue for tuition for the time he or she teaches without such license; but if a teacher's license shall expire by its own limitation within a term of employment, such teacher may complete such term of employment within the then current year. The said trustee shall not employ any teacher whom a majority of those entitled to vote at school meetings have decided at any regular school meeting, they do not wish employed; and at any time after the commencement of any school, if a majority of such voters petition such Trustee that they wish the teacher thereof dismissed, such Trustee shall dismiss such teacher, but only upon due notice, and upon good cause shown; but such teacher shall be entitled to pay for services rendered.

TEACHERS—EMPLOYMENT OF.

(Acts 1893, p. 34, Sec. 6593.)

263. Terms for which teachers may be employed—Contracts—Trustee's liability. After the passage of this act it shall be unlawful for any Township Trustee to contract with any teacher to teach in any common school if the actual term of service of such teacher under such contract does not begin before the expiration of the term of office of such Trustee. Every contract made in violation of the provisions of this section shall, as to the township represented by such

Trustee, and the school fund thereunto belonging, be absolutely void; but such Trustee shall be personally liable to such teacher for all services rendered under such contract, and for all damages which he may sustain by reason thereof.

TEACHERS—CONTRACTS TO BE IN WRITING.

(Acts 1899, p. 173, Sec. 6594.)

264. Contracts to be in writing. All contracts hereafter made by and between teachers and school corporations of the State of Indiana shall be in writing, signed by the parties to be charged thereby, and no action shall be brought upon any contract not made in conformity to the provisions of this act.

TEACHERS—RECORD OF CONTRACTS.

(Acts 1899, p. 173, Sec. 6595.)

265. Trustees' duties as to record of teachers' contracts. For the purpose of carrying this act into effect the School Trustees of the several school corporations of this State shall provide a public record of uniform blank contracts to be carefully worded under the direction of the superintendent of public instruction, and cause such contracts to be signed therein, which record shall be deemed a public record, open to inspection by the people of their several school corporations.

TEACHERS—MINIMUM WAGES.

(Acts 1913, p. 104, Sec. 6599.)

266. Acts 1913—Minimum wages for teachers. The daily wages of teachers for teaching in the public schools of the State shall not be less, in the case of beginning teachers, than an amount determined by multiplying two and one-half cents by the general average given such teacher on his highest grade of license at the time of contracting. For teachers having had a successful experience for one school year of not less than six months, the daily wages shall be not less than an amount determined by multiplying three cents by the general average given such teacher on his highest grade of license at the time of contracting. For teachers having had a successful experience for three or more school years of not less than six months each, the daily wages shall be not less than an amount determined by multiplying three and one-half cents by the general average given such teacher on his highest grade of license at the time of contracting. For teachers having had a successful experience of five or more school years of not less than six months each, the daily wages shall be not less than an amount determined by multiplying four cents by the general average given such teacher on his highest grade of license at the time of contracting. All teachers now exempt from examination shall be paid, as daily wages for teaching in the public schools, not less than an amount determined by multiplying three and one-half cents by the general average of scholarship and success given such teacher: Provided, That the grade of scholarship accounted in each case be that given at the teacher's

last examination, and that the grade of success accounted be that of the teacher's term last preceding the date of contracting: and, Provided further, That two per cent. shall be added to the teacher's general average of scholarship and success for attending the county institute the full number of days, and that said two per cent. shall be added to the average scholarship of beginning teachers.

TEACHERS—PAYMENT AT LESS THAN MINIMUM.

(Acts 1907, p. 146, Sec. 6601.)

267. Penalty for Trustee to pay less. If any school officer shall pay to any teacher for school services at a rate less than that fixed by the minimum wage act, he shall be fined in any amount not exceeding \$100.00 and shall be liable in a civil action for wages to such teacher at the rate provided in this act, which may be recovered by such teacher, together with an attorney's fee of \$25.00, in any court of justice of competent jurisdiction.

TEACHERS—SPECIAL EXAMINATION.

(Acts 1865, p. 143, Sec. 6603.)

268. When Trustee may require special examination. If persons attached to and forming a school district shall, at a school meeting, designate other branches of learning than those required by law to be taught, which they desire to have taught in their school, the Trustee in employing a teacher for said school shall require said teacher to be examined as to his qualifications to teach the branches so designated.

TEACHERS' INSTITUTES.

(Acts 1915, p. 555, amending Sec. 6637.)

269. Teachers required to attend institute—Conditions. At least one Saturday in each month during which public schools may be in progress shall be devoted to township and city institutes, or model schools for the improvement of teachers; and two Saturdays may be appropriated, at the discretion of the Township Trustee of any township or the Board of School Trustees or board of school commissioners of any city. Such institute shall be presided over by a teacher, or other person, designated by the Trustee of the township, or by the city superintendent or other person designated by him. The Township Trustee, Board of School Trustees, or board of school commissioners shall specify, in a written contract with each teacher, that such teacher shall attend the full session of each institute contemplated herein, or forfeit one day's wages for every day's absence therefrom, and for each day's attendance at such institute each teacher shall receive the same wages as for one day's teaching: Provided, That no teacher shall receive such wages unless he or she shall attend the full session of such institute and perform the duty or duties assigned: and, Provided, The provisions of this act shall not apply to school teachers who are engaged in teaching school on Saturdays.

(Acts 1911, p. 666, Sec. 6640a.)

270. Adjourning schools—Pay of teachers. The school board of any city or town, and the Township Trustee of any township, may adjourn the schools of such city, town or township in order to allow teachers to attend sessions of schools or institutes of agricultural instruction held in the county, and the meetings of any teachers' associations, and to visit model schools under the direction of Trustees or Boards of Trustees and shall pay such teachers a wage for the time spent equal to the per diem of such teacher: Provided, That not more than three days shall be allowed in any one year.

SCHOOLS—TOWNSHIP HIGH SCHOOLS—HOW ESTABLISHED.

(Acts 1913, p. 331, Sec. 6584a-b.)

271. How to be maintained in townships of \$600,000 valuation. In each township having an assessed valuation of \$600,000 of taxable property and wherein there is not situated a city or town maintaining a high school, and wherein for each of the two years last past there have been eight or more graduates of the township elementary schools, residing in such township, the Trustee may establish and maintain a high school or a joint high school and elementary school and employ competent teachers therefor.

In such township having eight or more elementary graduates, where there is no high school within three miles of its boundary line, the Trustee shall establish and maintain therein a high school and employ competent teachers therefor.

(Acts 1913, p. 331, Sec. 6584a.)

272. Petition of majority of parents, guardians and heads of families. Whenever a majority of parents, guardians, heads of families or persons having charge of children, who were enumerated for school purposes in said township at the last enumeration, petition the Trustee of said township to establish and maintain a high school or a joint high school and elementary school, said Trustee shall establish and maintain such a school petitioned for.

(Acts 1913, p. 331, Sec. 6584c.)

273. Power of Trustee to locate—Appeal to county superintendent—Decision final—Qualifications of pupils. The location of such high school shall be determined by the Trustee.

When ten or more persons who are parents, guardians, heads of families or persons who have charge of children who are graduates from the elementary schools and who were enumerated, petition for another location than that determined upon by the trustee, an appeal to the county superintendent is given.

The county superintendent shall thereupon determine the location of the high school building, and his decision shall be final, and the Trustee shall proceed in the execution of the provisions of the act.

SCHOOLS—HIGH SCHOOL DISTRICT.

(Acts 1911, p. 475, Sec. 6623b.)

274. High school district—Township joining with town or city. Any city or incorporated town located in any township or townships in this State and which maintains or may hereafter establish and maintain a regularly commissioned high school, easy of access and which meets the requirements for high school pupils, may establish and maintain jointly with any such township or townships contiguous thereto or any part thereof and any incorporated town located therein, a high school which will furnish adequate accommodations for the high school pupils in the territory included and the same shall be constituted and known as a high school district.

(Section 6623b.)

275. District—Determining the territory—Joint high school. School commissioners, Boards of School Trustees, Township Trustees or other school officials interested may meet and determine the territory to be included in such high school district; make provisions for ample school building or buildings and equipment, and provide for the maintenance and support of such high schools as herein provided.

275a. JOINT TOWNSHIP HIGH SCHOOLS.

(Acts 1915, p. 580.)

In two adjoining townships, in any county in this State, having a joint assessed valuation of more than seven hundred and fifty thousand dollars (\$750,000.00) of taxable property, and wherein there is not now established, in either of said adjoining townships, or in any town or city in either of said adjoining townships, a separate high school, and in which there is not now established a joint high school for the use of said adjoining townships, and wherein, for each of the two years last past, there have been eight or more graduates of the township elementary schools residing in each of said adjoining townships, the Township Trustees of said adjoining townships, whenever at least one-third or more of the parents, guardians, head of families, or persons, having charge of children, who were enumerated for school purposes in said township, at the last preceding enumeration, petition the Trustees of said adjoining townships, to establish, erect and maintain, a joint high school building and high school, at some point within said adjoining townships, to be set out and designated in said petition, shall establish, erect, and maintain such joint high school building and high school within said adjoining townships as petitioned for, and employ competent teachers therefor.

CONTRACT FOR SCHOOL FACILITIES.

(Acts 1915, p. 158, amending Sec. 6623c.)

276. School officials may contract for accommodations—Board of control. The school officials of any such township, townships and incorporated towns may authorize and enter into contract with the school

commissioners or Board of School Trustees of any such city or incorporated town to provide such high school accommodations for a part or all of their respective townships or town corporations by the purchase of grounds, erection of a building or buildings or by making repairs of present building or addition thereto, and by equipping the same in accordance with existing laws governing cities and towns in such procedure including the issuing of notes or bonds of their respective corporation and the payment of the same: Provided, That the officials of the several school corporations composing such high school district may by contract provide for a board of control for such high school or schools consisting of the Township Trustee of each township and the president of the board of school commissioners or School Trustees of each city or town included in such high school district which board of control shall have full control and management of such school or schools as may be established or maintained by such high school district each member being entitled to an equal vote in such control and management: and Provided, That the provision for such board of control shall not be effective in any high school district established by virtue of this law, except in such high school districts as shall contract for such board of control as herein provided.

Note: It is believed that the school authorities in such high school districts had no power to make contracts for the control or management of the schools prior to the amendment of 1915, but that the officials of the parent corporation in which such schools are located, had the control and management, and will have such control until contracts as provided in the amended act shall be made.—Editor.

Chapter 80, Acts 1915, p. 158, amends and supersedes Chapter 13, Acts 1915, p. 29.

EXPENSES—APPORTIONMENT.

(Section 6623d.)

277. Expenses—Apportionment—Estimates. The school commissioners or Board of School Trustees of such cities and towns shall prepare and submit annually, prior to the time for the levy of school taxes for any year, to the school officials of all interested school corporations of said high school district, an itemized statement of the cost of all expenditures for improvements and maintenance of such high school or schools for the previous year, with an itemized estimate of the cost of all proposed improvements, changes, equipment and expenses incidental thereto for the ensuing year, including any notes bonds or interest thereon falling due and issued under any contract made under the provisions of this act, and such school officials shall meet and determine the expenditures needed and the total amount required for any unpaid obligations, improvements or requirements for the ensuing fiscal year of such high school. The total amount shall then be apportioned among the several school corporations affected or benefited thereby in proportion to the last official assessed valuation in each of said school corporations or parts thereof in said high school district. Said officials of each school corporation shall pay out of the school funds of the township the amount apportioned to their respective school cor-

porations for the maintenance of such high school and may issue notes or sell the bonds of their respective corporations for any permanent improvements in such high school or pay the same out of the special school fund in their discretion. The school corporation shall assess such sum on the entire property within the school corporation or against the property of that part of the school corporation directly benefited.

(Section 6623e.)

278. Warrants—Fund must not be diverted. The amounts due from any school corporation shall be paid on warrants issued by the order of the proper officials of such school corporation to the treasurer of the board of school commissioners or Board of School Trustees of such city or town and such funds shall be used only for said high school purposes, and no other.

(Section 6623f.)

279. How township may withdraw from co-operative high school. If any school corporation shall at any time wish to withdraw from said high school district and establish a separate high school, they shall receive from the school corporations remaining in the said district an equitable amount for their interest in the property of said high school district, to be determined by a board consisting of the county superintendent, county auditor and county assessor. The amount thereof shall be paid to the corporation and the sum shall be assessed against the remaining school corporations as other amounts are assessed.

(Section 6623g.)

280. Act declared to be supplemental one. It is the intent of this act that its provisions shall be additional to any statutory provisions for the establishment and maintenance of high schools. This act shall not therefore be construed to repeal, in whole or in part, any other statute having to do with the establishment, maintenance or support of public high schools, except as herein provided.

JOINT SCHOOLS AND HOUSES.

(Acts 1901, p. 53, Sec. 6620.)

281. When Trustee may join with adjacent township. The Trustee of two or more adjacent school corporations may establish a new school district and build a schoolhouse therein at the joint expense of their several corporations, whenever, in their judgment, it shall appear necessary for the better accommodation of the people of their respective corporations. Provided, That such necessity must be set forth in a petition of the persons making the request, such petition to be presented to each of said Trustees. And said Trustees shall, at the time agreed upon by them, not less than ten days nor more than thirty days from the time of receiving such petition, hold a joint meeting for the purpose of declaring whether such petition shall be granted, and take further action as the case may require.

(Acts 1901, p. 53, Sec. 6621.)

282. Expense of establishing, how borne—Control of school. Each corporation shall bear such part of the expense of establishing such joint district school as the number of children of school age residing in each corporation and attaching themselves to said new district at the time of the formation, bears to the whole number of children of school age who are attached to said district at its formation and each corporation shall assume its share of the debt so incurred. But when said school shall be established it shall be controlled by the corporation in which it is established in the manner already prescribed by law.

SCHOOLS—BUILDINGS IN TOWNS—USE BY TOWNSHIP.

(Acts 1911, p. 141, Sec. 6614a.)

283. When free use of building is offered—Conditions. Whenever the owner of a school building located in an incorporated town tenders the use of the same for school purposes for the school year to the Trustee of the township within which it is located without any charge or expense other than keeping the same in proper repair and good condition during such school year, such Trustee if he deem the use of school building suitable and convenient may use the same for school purposes in the same manner as township school buildings are now used and the employment and paying of teachers, the admission of pupils, and conducting school in said building, and the care thereof shall be governed by the laws applicable to township schools located without such towns.

JOINT SCHOOLHOUSE—EXPENSE OF MAINTENANCE.

(Acts 1901, Sec. 6622.)

284. How expense of maintenance to be apportioned. The children of school age resident in a joint district already established or hereafter established shall be admitted to the joint school maintained therein, without transfer certificates or tuition charge. The trustees of the various corporations from which the joint district is made shall pay such part of the cost of maintaining the joint school as the number of pupils enrolled from each corporation bears to the whole number enrolled in the joint school.

JOINT GRADED SCHOOLS.

(Acts 1873, p. 68, Sec. 6623.)

285. When joint graded schools may be established. The School Trustees of two or more distinct municipal corporations for school purposes shall have power to establish joint graded schools, or such modifications of them as may be practicable, and provide for admitting into the higher departments of their graded schools, from the primary schools of their corporations, such pupils as are sufficiently advanced for such admission. Said Trustees shall have the care and management of such graded schools, and they shall select the teachers therefor. They shall have power to purchase suitable grounds for such

graded schools, and erect suitable buildings thereon; and the title to all such property, acquired for such purposes, shall vest jointly in the corporations establishing the graded schools.

JOINT SCHOOLHOUSE FOR SEVERAL TOWNSHIPS.

(Acts 1877, p. 125, Sec. 6617.)

286. Joint schoolhouse—Two or more townships. The Trustees of two or more adjacent counties or townships may establish a new school district, and build a schoolhouse therein at the joint expense of their several townships, whenever, in their judgment, it shall appear necessary for the better accommodation of the people of their respective townships: Provided, That such necessity must be set forth in a petition of the persons making the request—such petition to be presented to each of said Trustees. And said Trustees shall, at the time agreed upon by them, not less than ten days nor more than thirty days from the time of receiving such petition, hold a joint meeting, for the purpose of declaring whether such petition shall be granted, and take such further action as the case may require.

JOINT DISTRICTS—COST OF ERECTING.

(Acts 1877, p. 125, Sec. 6619.)

287. How cost of erection shall be apportioned. Each township shall bear part of the expense of establishing such joint district school as the number of children of school age residing in each township and attaching themselves to said new district at the time of the formation, bears to the whole number of children of school age who are attached to said district at its formation; and each township shall assume its share of the debt so incurred. But when said school shall be established, it shall be supported by the township in which it is established, in the manner already prescribed by law.

JOINT DISTRICTS, SCHOOLHOUSE FOR.

(Acts 1903, p. 431, Sec. 6618.)

288. Duty of Trustee when funds insufficient. Whenever a majority of the school patrons of two or more adjoining school districts, located in two or more adjacent townships, may heretofore have petitioned, or whenever they may hereafter petition, in substantial compliance with the provisions of section 1 of an act of the general assembly of the State of Indiana, in force March 6, 1877, being section 6617, Burns' revised statutes 1914, to the Trustees of said townships for the establishment of a new school district and the erection of a joint school house for a joint graded school, at the place named in said petition, for the accommodation of the school children residing in said school district, and if said Trustees shall have granted, or may hereafter grant, the prayer of said petition, or if an appeal may have been taken, or may hereafter be taken, to the county superintendent, from the decision of said Trustees, refusing to grant the prayer of said petition, under the provisions of section 6667, Burns' revised statutes

1914, and if on such appeal said superintendent may have granted, or may hereafter grant, the prayer of said petition, then, in either of such events, an emergency shall thereby exist for the procurement of a site and the erection of such schoolhouse, as contemplated by section 9595, Burns' Revised Statutes 1914, and if there is not sufficient money on hand for the purpose, the Trustees and the advisory boards of said townships shall proceed to raise the money necessary to meet such emergency, as provided by said section, and shall also procure the necessary site for the erection of said schoolhouse and erect and maintain the same as provided by law.

SCHOOLS—CITY AND TOWNSHIP—JOINT GRADED SCHOOL.

(Acts 1913, p. 911, Sec. 6622a.)

289. When matter is to be settled by an election. Whenever twenty-five (25) legal voters, residing in any incorporated town or city of the fifth class and twenty-five (25) legal voters residing in the same township, but outside said town or said city, shall petition the school board of said town or said city and the Township Trustee of the township in which said town or said city is located to erect a joint schoolhouse for a joint graded school, or a joint high school, or both, or such modification thereof as may be practicable, it shall be the duty of the school trustee of said town or said city and of said Township Trustee or a majority of them to call elections of the voters of the town or city and the voters of the township residing outside of such town or city respectively, for the purpose of determining whether a majority of the legal voters of each school corporation are in favor of building said joint schoolhouse. Such elections of the legal voters of the townships outside of the town or city shall be separate and independent. Said Trustees shall, upon the filing of said petitions, give notice by publication, for three successive publications, in a weekly newspaper, if any, published in said township, and if no weekly is published in said township, then in the nearest newspaper published in said county, that on a day to be named by said Trustee the polls will open at the several voting places in said township named in the petition for the purpose of taking the vote of the legal voters thereof upon whether such joint schoolhouse shall be built; said elections shall be held not less than ten (10) days nor more than twenty (20) days after the last publication of said notice.

BALLOTS—ELECTION METHOD.

(Acts 1911, p. 463, Sec. 6622b.)

290. Prescribed ballots—Method of the election. On the day named in said notice such polls shall be opened and the votes of the legal voters shall be taken upon the question of building such schoolhouse, and said election shall be governed by the general laws of the State, so far as they may be applicable except as otherwise provided herein. Said Trustees shall constitute the board of election commissioners and they shall cause to be prepared and distributed proper ballots. There shall be printed on the ballots two squares and words as follows:

☐ YES For building the schoolhouse.

☐ NO For [Against] building the schoolhouse.

Each voter desiring to vote for the building of such joint schoolhouse shall make a cross with a pencil in the square containing the word "yes," and each voter desiring to vote against the building of such joint schoolhouse shall make a cross in the square containing the word "no." Said Trustees shall appoint inspectors, judges and clerks for such elections. The votes cast at such elections shall be canvassed at the office of the Township Trustee on the day following said election at 10 o'clock a. m., and a certificate of the votes cast for and against the building of said schoolhouse shall be filed with said Trustees. If a majority of the votes cast at each of such elections are in favor of the building of such joint schoolhouse, said Trustees of said school corporations shall proceed to build the same, and the township advisory board shall make the proper appropriation for the proportionate part of the cost of said building to be paid by said township. Said Trustees shall provide a suitable site for said building.

JOINT OWNERSHIP OF PROPERTY.

(Acts 1913, p. 911, Sec. 6622d.)

291. Joint ownership of property—Control and management. Any schoolhouse constructed under the provisions of this act shall be joint property of said corporations, and such property shall be owned by such corporations in proportion to the amount paid by each for the construction of the same, and said school shall be open to all pupils residing in said town or city or township free of tuition. The trustee of said school corporations shall have the control and management of said schoolhouse and school and the right to employ teachers in such school. Neither of said corporations shall ever be deprived of its ownership in said building except upon full compensation for its proportionate interest in the same.

COST OF CONSTRUCTION—TAX LEVY—BONDS ISSUED.

(Acts 1913, p. 911, Sec. 6622c.)

292. How cost of erection shall be determined—Bonds—Levy. The cost of the construction of such joint schoolhouse shall be borne by such school corporation in proportion to the total amount of taxable property in each of such school corporations. If such school town or school city shall not have money available to pay for its proportionate part of the cost of the construction of said joint schoolhouse, the school Trustee of such town or such city may issue warrants or bonds of such corporation to meet such proportionate cost. If there are not sufficient funds available out of the annual township levy to meet the proportionate cost of said schoolhouse to be paid by such township, then the township advisory board of such township shall order bonds or warrants to be issued, and the Township Trustee shall issue township war-

rants or bonds to meet such proportionate cost to be paid by such school township. Such bonds authorized by this act shall be payable in such amounts and at such times as the Trustees of said corporations respectively may determine and shall bear such rate of interest as may be determined not exceeding four and one-half ($4\frac{1}{2}$) per cent.

TRUSTEE CAN NOT CHANGE OR VACATE HIGHWAY.

(Acts 1859, p. 220, Sec. 9582.)

293. The old law of 1852 repealed. Under the law of 1852 (R. S. 1, p. 495), three Township Trustees were annually elected, together with a township treasurer and clerk. The Trustees were authorized to lay out, change and vacate highways when wholly within the township. These were given the name of township roads. A new law was enacted in 1859, p. 220 which is still in force, providing for one Trustee only. Under the same act the authority was vested in the board of commissioners, alone, to lay out, change and vacate highways, taking that power from the Trustee.

Note: For definition of "township road", see Section 7792 Burns' R. S., Section 328 this book.

HIGHWAYS.

(Acts 1905, p. 521, Sec. 7651-7652.)

294. Trustee's notice to his supervisor. New highways, changes and vacations of highways, are made under the jurisdiction of the board of county commissioners only, by petition, view, review and order of such new highway, changes or vacation, and its order made of record by the board.

It then becomes the duty of the auditor to give notice of the action of the board to the interested Township Trustee, giving a complete and accurate description by courses and distances of such new road, change and vacation, together with its width; who shall cause his road supervisor to be notified that a new road or change in road may be properly worked according to law.

HIGHWAYS—BRIDGES—ROAD FUND.

(Acts 1913, p. 609, Sec. 3823a.)

295. Repairs or erection costing \$100 or less—New law 1913. Under act of 1913, all bridges erected or repaired on public highways when the cost of erecting or repairing shall not exceed \$100, shall be built by the Township Trustee and paid out of the township road fund.

HIGHWAYS—CONVICT LABOR EMPLOYED.

(Acts 1913, p. 233, Sec. 9852a-d.)

296. 1913 law—Convict labor on highways. By the act 1913, the Boards of Trustees of the Indiana Reformatory and Indiana State Prison, were authorized to work any number of inmates upon the public roads of the State.

Section three provides that boards of commissioners and Township Trustees have power to work the inmates upon the highways of the counties and township, and with the consent of the county council and advisory boards to enter into agreement with such state board for such purpose. Power is given the local authorities to purchase all material necessary to perform such work on the highways, and to employ expert superintendents of such work.

HIGHWAYS—TOWNSHIPS—SUPERVISORS ELECTED—DUTIES.

(Acts 1913, p. 862, Sec. 7760 to 7792.)

297. 1913 law regulating number of road supervisors—When Trustee acts—New highway law—Sec. 1, 1913 Act as amended, Acts 1915, page 101. The qualified voters in each road district of the several townships of the several counties in the State shall, on the second Saturday after the first Monday in December, 1916, and every two (2) years thereafter, elect a supervisor who shall hold his office for the term of two (2) years and until his successor is elected and qualified. Road districts shall not be held to include any part or parts of cities or incorporated towns that may be in the township in which such road districts are located. The Township Trustee of each township shall on or before the first Monday in December, 1916, and every two (2) years thereafter, post up or cause to be posted, in at least two (2) public places in each road district of his township, written or printed notices of an election of supervisor of such road district, giving therein the place, day and hour at which such election is to be held. The day and hour of such election shall be the same in each road district of the township. The place of such election shall, if practicable, be a schoolhouse, located in the road district. The Township Trustee shall act as inspector of the election in the road district in or nearest to which he resides, and shall name from among the qualified voters present two clerks, who shall, if possible, not both be of the same political party. Such clerks, with the Trustee, shall form an election board to judge of the qualifications of voters, and shall collect or receive and shall count the ballots cast. If one or more members of the election board, or one or more freeholders among the qualified voters present shall challenge any one offering to vote, and declare under oath that such an one is not entitled to vote, giving reasons for such declaration, then, after the one offering to vote and challenged as aforesaid shall have been given an opportunity to reply and to declare under oath his qualifications, if such one or more members of such election board or such one or more freeholders among the qualified voters present persist in their challenge and declarations, the one thus challenged shall not be allowed to vote unless a freeholder among the qualified voters present shall declare under oath that such challenged voter is entitled to vote in that road district at that election. For the election of supervisor in each road district of his township, other than the one in or nearest to which he resides, the Trustee shall name an inspector of election, and such inspector shall name two clerks, of different political parties, if possible, from among the qualified voters

present. Such inspector shall be a freeholder in the road district in which the election is held. The inspector and the two clerks shall constitute an election board to judge, as heretofore provided, of the qualifications of voters, and to receive or collect and to count the ballots cast. Such inspector or trustee shall be authorized to administer all necessary oaths in relation to such election. The inspector and clerks provided for in this act shall serve without pay, but the Township Trustee shall be entitled to his regular pay for one day for the day on which the notices aforesaid are posted up and for one day for the day on which he files reports of election of supervisors with the auditor of the county. The Trustee shall provide paper for ballots and for the clerks in their count of such ballots. The Trustee or inspector shall be present promptly at the place and hour named in the notice of election, and if the said Trustee or inspector shall not appear within fifteen minutes after the time set, then the qualified voters present shall select a freeholder from their number as inspector. The polls shall be opened in the afternoon at the hour of two (2) o'clock, and shall continue open until five (5) o'clock in the afternoon, if all voters present have voted, or have been given an opportunity to vote, provided that the election board may close the polls sooner if all voters present have voted or have been given an opportunity to vote, and no vote has been cast for ten (10) minutes. Immediately upon the announcement that the polls are closed, the election board shall proceed to count the ballots, and during the count all voters shall be excluded from the room in which the count is made excepting only the election board and two watchers, who may be named, one by each of the clerks. The person receiving the highest number of votes cast shall be deemed to be elected. Only those ballots shall be counted which contain the name of but one (1) person, and mistakes in spelling or in initials shall not prevent the ballot from being counted where the intent of the voter is evident; all counted or uncounted ballots shall be preserved under the seal of the Trustee until June following the day of election. Ballots may be either written or printed. When the count is completed the Trustee or inspector shall at once announce the result and the Trustee shall issue a certificate to the person so elected. The inspector of each district other than that of which the Township Trustee is inspector shall file with such Trustee the report of election in his district, together with all papers and ballots. The Trustee shall within three (3) days file with the auditor of such county a report of all elections of supervisors held in such Trustee's township, which report shall be certified to, in the case of each road district, by the members of the election board in such district. Each supervisor shall at the time of his election or appointment be a qualified voter of the road district for which he is elected or appointed. In all townships in this State in which the township roads do not exceed ten (10) miles in length, the Township Trustee shall be ex-officio road supervisor, and in no case shall there be to exceed four (4) supervisors in any one township in this State. Such supervisor shall take an oath, before entering upon the discharge of his duties, for the faithful performance thereof, and give a bond with surety to be approved by the Township

Trustee, and conditioned for the faithful discharge of his duties, in the sum of not less than two hundred (\$200.00) dollars, which bond shall be deposited with the Township Trustee: Provided, That if any person elected supervisor shall be unable to give such bond, such inability shall be a defense to the collection of the forfeiture herein provided for, and the Township Trustee shall appoint some one else as supervisor who shall serve until his successor is elected and qualified. Each road supervisor shall receive for his services actually performed the sum of twenty-five cents (25c) per hour for not to exceed fifty (50) days except that in the event of the election of but one (1) supervisor for his township, the Township Trustee may extend the time said supervisor shall work to not more than 120 days in any one year to be paid out of the township treasury. Before receiving such pay he shall file a sworn statement with the Trustee of the township, which statement shall specify the days and roads upon which such services were performed. Upon failure or neglect to carry out or perform such duties as are imposed upon him, any supervisor shall be liable upon the bond hereinbefore provided for, or he may be removed from office by the Township Trustee. The Township Trustee shall fill all vacancies for the unexpired term, and shall notify such appointee of his appointment within three (3) days thereof. Such supervisors shall have charge of and work and keep in good repair the roads of their respective districts. They shall be subject to the control and direction of the township trustee, who shall see that their duties be faithfully performed, and who shall see that the roads of the townships are dragged whenever the weather conditions make such work advisable. He shall also call out all persons in such district liable to work on highways therein, superintend the labor thereon, see that the same is faithfully performed and report to the trustee all fines and commutation moneys due such district and the same shall be collected by such Trustee, and whenever such Trustee shall deem it necessary he may make any change in the road districts that may subserve the public interest. On dividing his township into road districts, or where any change is made therein, such Trustee shall record a plat thereof in the highway record of his township, which shall show the roads and parts of roads belonging to each road district.

Note: The material changes from the 1913 law, which is in effect until the second Saturday after the first Monday in December, 1916, are: the limited number of days which the supervisor shall work is changed from sixty to fifty days, and the date for election of supervisor is changed from the general election in November to the second Saturday after the first Monday in December, biennially.

297a.**WEED-CUTTING ON HIGHWAYS.**

(Acts 1915, p. 622, repealing Sec. 7807-7809.)

Landowners, through or along whose lands highways run, are required to cut down and destroy briars, burrs, docks, willows, sumac, reeds, cattails, tall grass, shrubs and all other growths which obstruct the view of such highways along, through, or contiguous to the lands

of such owners. Such work must be done between June 15th and September 1st of each year, and under the direction of the road supervisor. The landowner is allowed \$1.50 per day of eight hours for such work, and a proportionate sum for each fraction thereof, for the time necessarily employed thereat, to be credited upon his road taxes as other road work is credited.

The above provision applies to "township roads" only, and does not apply to free gravel or macadam highways, which are under the supervision of the county highway superintendent.

The act of 1915 repeals the old weed statutes, being sections 7807, 7808 and 7809 Burns' 1914.

The supervisor may upon complaint by any interested person, or upon his own motion, investigate to determine whether any landowner in his road district has complied with the requirements of the law. If any landowner fails to cut and destroy such growths within the time named, the supervisor shall have the work done. In that event, the supervisor shall prepare, sign and certify to the county auditor a statement of the total cost of the work, including the cost of the labor and of the investigation, figured at \$1.50 per day, to be charged against the owner's land as a special weed tax and to be collected at the same time and manner as road taxes.

Any person who violates this law is liable to a fine of not less than \$5.00 nor more than \$10.00 for each separate offense.

Note: The road supervisor should issue receipts to the landowner for the work done, to be credited upon the owner's road taxes.

(Section 7761.)

298. Road tax—Call by supervisor—Who may be called. Any such supervisor shall call out all able-bodied male persons, except insane, idiotic, deaf and dumb, and blind persons within his jurisdiction and who are over the age of twenty-one (21) years, and under fifty (50) years of age, and not exempt from such labor, during not less than two nor more than four days of each year between the first day of April and the first day of December of each year. The supervisor shall require such persons to work on the highways of such district eight hours each day, and to furnish in such labor any tool that the supervisor may direct, if the demand therefor be a reasonable one. Any person able to perform an ordinary day's labor shall be deemed able-bodied, within the meaning of this act, although the person may be in some respects disabled: Provided, That no person who served in the army or navy of the United States during the war of the Union or the war with Spain or in the Philippine Islands, and who was honorably discharged therefrom, shall be required to labor on the public highways.

(Section 7762.)

299. Owners of teams—Credit for double time. Such supervisor may require any person liable to work on such highways who is the owner of an ox, mule, or horse-team, road scraper, road scoop, cart or wagon to furnish the same, and a driver, in such labor on such highways, and such person shall receive credit for two days' labor for each

day's service by such driver and team, and shall be given a receipt by such supervisor accordingly.

(Section 7763.)

300. Penalty—Supervisor issuing false receipt. Any road supervisor who shall issue and deliver to any person his receipt, giving credit for work done on highways in his district, when such person to whom, or for whom such receipt is issued, has not actually worked or caused work to be done for the full time that such receipt gives credit for at the rate of eight (8) hours for one day's work or has not paid the commutation money as provided by law, shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00) for every such receipt so issued.

(Section 7764.)

301. Who may be exempt from road work. On application to the Township Trustee any person liable to work on the highways may be exempt therefrom, if it be shown that he is unable from bodily infirmities to work thereon and that he is too poor to pay the commutation therefor; also any person who is a bona fide member of a legally organized fire company, located in any city or town in this State. And in such cases the Township Trustee shall execute to such person a certificate which shall, on being presented to the supervisor, entitle him to such exemption.

(Section 7765.)

302. Cash payment—\$1.50 per day—Exemption. Any person liable to work on the highways may be exempt therefrom by paying to the supervisor of his road district one dollar and fifty cents (\$1.50) for each day he is liable to work thereon, and in that case he shall receive a receipt therefor from the supervisor. Such supervisor shall be authorized to employ some person or persons to work out such money, at the rate of one dollar and fifty cents (\$1.50) per day, on the roads of his district; or failing to do so, he shall pay over all such money into the township treasury, for the benefit of the road district.

(Section 7766.)

303. Failure to pay or work—Suit. Every supervisor, within ten days after warning out the hands liable to work in his district, shall notify the Trustee who shall bring suit before any justice of the peace of the township in which such district is situated, and in the name of such township, against such persons as fail to work or pay over the commutation money therefor; and in such suit it shall be necessary to file only an account stating the number of days which each of such persons so failed to work or pay for, and charging one dollar and fifty cents (\$1.50) per day each therefor; and in case of a recovery against any such defendant, the judgment shall be rendered for one dollar and fifty cents (\$1.50) for every day the defendant so failed, and costs of suit, and no stay of execution or benefit of exemption, valuation or appraisal laws shall be allowed on such judgment. In case any such Trustee shall fail to bring suit, after having been so notified by such

supervisor, he shall forfeit and pay the sum of ten (\$10.00) dollars, to be recovered in an action brought by the prosecuting attorney, before any justice of the peace of the township, in the name thereof; and all the money so recovered under the provisions of this section shall be received and expended under the direction of the Township Trustee by the proper supervisor in the improvement of the highways of his district: Provided, That any such Trustee shall not be required to bring suit against any person from whom there is no probability of collecting, or who, at the time of working, shall be sick or otherwise unable to labor. If such person so temporarily sick or disabled be liable to pay commutation, he shall so pay, or the Trustee shall sue therefor within sixty days. No person able to pay commutation shall be exempt on account of bodily disability.

(Section 7767.)

304. Eight hours constitutes a day's work—Penalty. Any person liable to perform labor on the public highways, when notified for such purpose, may appear in person or by an able-bodied substitute, and the person or substitute so appearing shall actually work eight hours each day, under penalties of twenty-five cents for every hour such person or substitute shall be in default, to be deducted by the supervisor from the price of the day's labor.

(Section 7768.)

305. Faithful performance of labor. If any such person or his substitute, after appearing shall remain idle or not work faithfully, or shall hinder others from working, such offender shall for every such offense, forfeit the sum of one dollar and fifty cents, to be collected from such person as other fines and forfeitures herein specified, and such person or his substitute shall be discharged by the supervisor without credit for any part of the work he may have done.

(Section 7769.)

306. Employment of additional labor. Such supervisor, within ten days after the receipt of any money which he is not required to pay over to the Township Trustee, shall proceed to employ laborers to repair the highways in his district, but shall not pay more to such laborers than is customary in his district for similar services, and such supervisor shall superintend such repairs; but in no case shall such supervisor neglect to repair such highways, and if such labor shall be insufficient therefor, he shall call out the hands in his district to complete such repairing. If any person so called out shall refuse to work, he shall be liable to pay the commutation money therefor, and it shall be the duty of the Trustee to bring suit for the same as provided in section seven (7) of this act. See section 303, this book.

(Section 7770.)

307. Credit on subsequent labor. When such extra labor provided for in the next preceding section shall not require all the hands in the district, or an equal amount of labor from each, the supervisor may

assess the same upon such hands as he may deem sufficient, and for the excess of work performed by any one over the average amount performed by all he shall give to each person performing such excess a certificate of the amount thereof, which shall be credited to the holder on account of any subsequent labor to be done by him on the highways in his district.

(Section 7771.)

308. Material confiscated—Damages—How assessed and paid. The supervisor, or any other person by his order, may enter upon any land adjoining or near to any highway in his district, and thereupon construct such ditches, drains and dams, and dig and remove such gravel, earth, sand or stone, or cut and remove such wood or trees as may be necessary for the proper construction, repair or preservation of such highways; and the supervisor, together with two disinterested persons, shall proceed at once to the locality and assess such damages in favor of the owner of the lands thereof, as in their judgment seems right and proper, and report the same under oath, within ten days after such assessment, to the Trustee, having first given notice thereof to the party damaged and such Trustee shall pay the damages assessed out of the township treasury. The oath to such appraisers may be administered by the supervisor, and the oath to the supervisor may be administered by the Trustee. No person's land shall be entered when material can be found on the roadway, or convenient in the district on the roadways thereof, nor when drainage can be made on the roadway, at a cost not exceeding the cost and damages of entering upon private lands. In all cases contemplated in this section, demand shall first be made of the owner of the land before entering thereon or taking material. If he assent, he may point out the material and the location from which it is to be taken, and if accessible and fit for the purpose intended, the material shall be there taken. If consent be refused by the owner, the supervisor shall notify such owner of his intention to so enter, for what purpose and for what time, and point out the land to be occupied or the material to be taken. In all assessments of damages the owner shall be notified and have leave to select one appraiser, and shall have notice of the time and place of the meeting of the appraisers, and privilege to offer evidence as to damages at the time of the assessment by the appraisers: Provided, also, That any person aggrieved may appeal from the action of the appraisers to any justice of the peace of the township, by giving notice in writing to the road supervisor. Such notice must be given within ten (10) days after final action by the appraisers, and such person shall give bond within thirty days after final action by the appraisers. Such bond shall be payable to the Trustee, and shall be filed with and approved by the appraisers, and thereupon the papers shall be delivered to the justice of the peace; and such appeal shall be determined as other questions are determined in civil cases before justice of the peace.

(Section 7772.)

309. Abutting landowner to remove obstructions to highways. When a public highway, running through or bordering upon a tract

of real estate, shall become obstructed, the owner or occupant of such land shall remove such obstruction as soon as the same shall come to his knowledge, for which the proper supervisor shall allow him a reasonable credit on his liability to work on the highways, unless the obstruction be caused by the act of such owner or occupant, in which case he will be required to remove the same without any credit.

(Section 7773.)

310. Opening new highway—Ownership and removal of timber—Supervisors. All trees standing or lying on the land over which any highway shall be laid out, which it shall be necessary to remove in the opening of such highway, shall belong to the owner of such land if he shall remove the same before the supervisor is required to open such highway; but all such trees and down timber, or other material found on such premises, may be taken and used by the proper supervisor for the construction or repair of the highway or of any bridge thereon.

(Section 7774.)

311. Bridges and culverts—Erection and repair—When by township. If the Township Trustee of the township where any proposed bridge or culvert is to be located or repaired shall notify the board of commissioners of his county of the necessity of such location or repair, and if in the opinion of the commissioners the public convenience shall require the building or repairing thereof, they shall cause surveys and estimates to be made and provide for the erection of the same: Provided, That if the board of commissioners shall not deem such bridge or culvert of sufficient importance to justify an appropriation from the county treasury for the building or repair thereof, the Trustee of the township in which is located such bridge or culvert may appropriate any part of the road fund in the township treasury for that purpose, if he shall deem it right and expedient to do so.

311a. BRIDGES OVER DRAINS—DRAINAGE DISTRICTS.

(Acts 1915, p. 245.)

Sec. 34 of the Ballou Drainage Act of 1915, provides that the proper county, township or other corporation, shall build or enlarge, where necessary, bridges over the drains to be constructed under the drainage act, upon the order of the board of supervisors of the drainage district. The act provides that the secretary of the board of supervisors shall give notice to the proper county or township by delivering to the auditor or Trustee of such county or township the order of the board of supervisors of the drainage district declaring the necessity for the construction or enlargement of such bridge. Such bridge must be constructed within 10 days after the drainage ditch shall be completed across the public highway.

Note: The question as to the validity of the provision that the drainage district officers may compel counties or townships to build or reconstruct bridges will no doubt be determined by the courts.—The Editor.

311b.

BENEFITS TO HIGHWAYS.

(Acts 1915, p. 266.)

Section 61 of the Ballou Drainage Act provides that benefits to any highway arising from the construction of a ditch, under the above named act, shall be assessed against the proper township, which shall be paid by the trustee out of the township fund.

(Section 7775.)

312. Preference given to rural mail routes—Emergency fund—Penalty. Sec. 16. That in addition to the duties now conferred on them by law in respect to the care of highways, it shall be the duty of the board of commissioners, Township Trustees, road superintendents and road supervisors to keep in repair and in passable condition all highways in their respective districts or jurisdictions along or on which United States rural free delivery mail routes have been or may hereafter be established and maintained, and the Township Trustees shall set aside at least five per cent. of the amount of road fund received by them each year as an emergency fund to be used in carrying out the provisions of this act. It shall be the duty of the above named officers in performing their duties in respect to highways to give preference to the highways along or over which such rural mail routes have been or may hereafter be established and maintained. It shall be the duty of such officers to see that such highways are properly drained, are kept free of all obstructions, including snow drifts, and are at all times in condition to be safe and readily passable to ordinary travel. It shall be the duty of said officers, and each of them, upon receiving notice of the defective or impassable condition of any of the highways so used by mail routes above defined at once repair, or cause to be repaired, the said highway or highways. In making such repairs the board may repair bridges or culverts wherever necessary for the purposes of this act, regardless of the fact that there may be no appropriation therefor, and pay for the same out of any moneys in the county treasury not otherwise appropriated [appropriated]. If any member of any board of commissioners, any Township Trustee, road supervisor or superintendent shall fail to repair any such highway within his jurisdiction, or to cause the same to be done, for a period of five days after receiving notice of the defective condition thereof, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not over two dollars (\$2.00) for each day he shall have so failed after receiving such notice.

(Section 7776.)

313. Expenditure of emergency fund—Five per cent. fund. The Township Trustee shall order the expenditure of the funds derived from the tax provided for in the last section in the improvement of the highways of his township under such regulations as he may deem expedient for the public interest, and for this purpose shall pay such sums as may be necessary, on the order of the supervisors of the township, for work done by them under his direction. Such order or orders drawn

upon the Trustee shall distinctly state the services performed by the person or persons to whom the order is given.

(Section 7777.)

314. Road tax—Levy—Work limited to \$20—Balance cash—Road tax list—Duty of auditor. The township advisory board, on an estimate made by the Township Trustee, shall levy annually on or before the first Tuesday in June a road tax of not more than thirty cents on one hundred dollars (\$100) to be levied according to the amount of real and personal property owned in such township, outside of the corporate cities and towns subject to taxation for road purposes, to be collected as other taxes are collected, except all road taxes are to be collected with the first yearly installment of taxes: Provided, That any person or corporation owing taxes so assessed on real estate shall be permitted to work out the same up to the amount of twenty dollars (\$20.00) as nearly as practicable in the road district in which such real estate lies, and on taxes so assessed on personal property the person owing the same shall be permitted to work out the same up to the amount of twenty dollars (\$20.00) in the district where the owner resides. Said tax to be worked out at the rate of one dollar and fifty cents (\$1.50) per day for each man. That the Township Trustee may, with the consent of the township advisory board, levy an additional tax, not to exceed ten cents on one hundred dollars valuation, to be paid into the county treasury, with the first installment of taxes and to be paid by the treasurer to the Township Trustee, to be expended for the construction and repair of bridges and culverts and for other road purposes. All taxes so assessed on real estate or personal property if not worked out under the provisions of this section shall be paid into the county treasury in cash, as other taxes are paid and shall be paid by the county treasurer to the Township Trustee, to be expended for the construction and repair of roads and bridges within his jurisdiction. It shall be the duty of the county auditor to procure and deliver each year, on or before the 10th of September to the proper Township Trustee, a list of all road taxes assessed on each individual in his township, and the receipt of the supervisor of the proper district for the amount worked out by any tax payer, if not in excess of twenty dollars (\$20.00) shall be taken by the treasurer of the county in payment of so much of said taxes, if presented during the year in which the labor has been performed or the year following upon the performance of said labor. No supervisor shall issue receipt for work performed by himself, except for his own road tax but in no case in excess of twenty dollars (\$20.00) and no county treasurer shall receive the certificate of any supervisor except in payment of taxes on which the work shall be performed: Provided, further, That the road tax assessed on real estate and personal property shall be worked out on or before the first day of December of the year for which the levy was made. All credits allowed by county treasurers for road taxes worked out, upon settlement with the Township Trustee, to be properly distributed and charged, and road supervisors are required to make out and deliver to the Township Trustee on or before the first day of

December of each year, a statement containing a true list of persons, of their respective road districts having worked out their road tax, or any part thereof, during the year, together with the amount worked out by each person. And such supervisors shall likewise file with the Township Trustee, the receipts of all persons who are entitled to credit for road taxes worked out. And the Township Trustee shall, on or before the last day of December of each and every year, file with the county treasurer of the proper county all the receipts for road work that the proper persons may be given credit therefor on the tax duplicate. When demanded by the party working out road tax, the supervisor shall issue to him a road tax receipt which shall be marked duplicate: Provided, That the provisions of this section relative to paying all road taxes in excess of twenty dollars (\$20.00) in cash shall be construed to apply to the current year and shall be in full force and effect from and after the first day of April, 1913.

(Acts 1911, p. 65, Sec. 7778.)

314a. Redemption of road tax receipts. That whenever any road receipt for work done in lieu of taxes shall not have been presented for payment the year the work was done, or at the collection of the first installment of taxes of the year following, or before the regular settlement of the county treasurer with the Township Trustees, when all road funds remaining in the hands of such treasurer are paid over to the said Trustees, then upon presentation of such road tax receipt, or receipts, by the owner of the land for which said road tax was worked out, and for which said receipt was given to the Trustee of the township from which the same was issued and wherein such work was done, such Township Trustee shall upon the presenting of such road receipts to him, by the said holder of the same, take up, redeem, and pay such road receipts out of any funds available in his hands.

(Section 7779.)

315. Supervisor's duty to give notice to hands. The supervisor shall notify each person in his jurisdiction liable to work on the highways thereof of the time and place of working, either by verbal or written notice, and if such person shall fail or refuse to respond such supervisor shall issue a second written notice to such person, at least three (3) days prior to the time designated for such work and if upon the receipt of such second notice such person shall fail or refuse to respond he shall thereby forfeit all right to work out such road tax and shall be required to pay all his road tax in cash: Provided, That such supervisor shall, as nearly as practicable, warn out all persons liable to work out their land tax on any certain road of his district, at the same time, to the end that he may act as the superintendent or overseer of such work and may have enough men working to justify an overseer of such work.

(Section 7780.)

316. When work may be let to lowest bidder. Such Trustee may let out the work contemplated in section 315, this book to the lowest responsible bidder, and for this purpose he may cause notices

to be posted up in three of the most public places in the township, that proposals will be received under such regulations as he may prescribe, at a time and place to be by him designated, for the improvement or repair of all the highways and bridges, or any part thereof, in such township; and in all such cases such Trustee shall adopt such regulations as to the extent of the improvements or repairs, term of payments, superintendence of the work, and the time of commencement and completion thereof, as he may deem proper. Payments on such contracts, according to the terms thereof, shall be made by the Trustee out of the road or bridge funds in his hands.

(Section 7781.)

317. Penalty for injury to drains or obstructions to highways. Any person who shall injure any dam, drain, embankment, ditch or other construction made for the protection of any highway or bridge, or who shall wilfully destroy any guide post, or deface any description or device thereon, or who shall unnecessarily, and to the hindrance of passengers, obstruct any highway or bridge, and who shall, when driving any vehicle, fail to pass to the right when meeting another vehicle, so as to allow it to pass without injury, for every such offense, shall forfeit the sum of five dollars, to be recovered by the Trustee in the name of the township before a justice of the peace of the county; and for every day such obstruction is continued the same sum shall be recovered. In all cases such Trustee, within three days after receiving information of any such offense, shall commence such suit, and the sum recovered thereon shall be used for the benefit of the highways of such township. In case of a recovery in any such action the justice of the peace shall tax, as costs, the sum of five dollars as attorney's fees for plaintiff's attorney.

(Section 7782.)

318. Duty of Trustee as to prosecution of suits—Supervisors. All such suits commenced by one Trustee may be prosecuted by his successor in office and no costs shall be taxed against him therein. Any supervisor who shall fail to use due diligence in keeping the highways of his district in good repair, under the regulations herein prescribed, or who shall fail to call out the hands of his district to work on the highways thereof the number of days herein prescribed, unless the tax assessed for such repair of such highway is sufficient, shall for every such offense, forfeit the sum of ten dollars (\$10.00), to be recovered before any justice of the peace of the county, in the name of the township, by the Trustee of such township; and all sums so recovered shall be for the benefit of the district for which such supervisor was elected or appointed, and such Trustee shall bring suit within three (3) days after receiving information of any such failure of duty by such supervisor.

(Section 7783.)

319. Supervisor to turn his records to successor. Every supervisor shall hand over all books, papers and moneys, as well as all tools in his possession, to his successor in office when called for. Township Trustee shall procure, with available road fund in his hands, such tools and implements as may be necessary for road districts.

(Section 7784.)

320. Trustee to determine improvements to be made. In determining upon the amount and character of work which shall first be done on any highway, or part thereof, the Township Trustee shall take into consideration the importance of the highway to the traveling public, and its convenience to gravel, stone or other material to be used in its construction. Whenever the citizens interested in the permanent improvement of any highway of public importance, shall, by donation, properly ditch, drain, gravel, embank or otherwise improve any such highway, such Trustee may contribute and perform work thereon equal in value to such donation, if he have the means in his hands to do so: Provided, moreover, That every Township Trustee shall set aside not less than five per cent. of the road funds received by him each year as an emergency fund, to be used in keeping in repair all highways in his township along or on which United States rural free delivery mail routes have been or may hereafter be established and maintained; and it shall be the duty of every such Trustee, and of every road supervisor, to give the preference to such highways in keeping the same in repair. Such highways shall be kept properly drained and free from all obstructions, including snowdrifts, so as to be at all times in good condition for ordinary travel.

(Section 7785.)

321. Trustee may administer necessary oaths. Each Township Trustee is empowered to administer oath in all cases touching the prosecution of the business of the township of which he is Trustee.

(Section 7786.)

322. All road moneys, to be used for road purposes. All road money on hand or that may hereafter be paid to the county treasurer under the provisions of this or of any previous act, shall be paid to the proper Township Trustee and be expended by him as other road funds are required by this act.

(Section 7787.)

323. Annual report of supervisor to Trustee. Each supervisor of each road district shall, on or before the first day of December in each year, make a full and succinct report, under oath, of his proceedings, showing the names of all persons liable to perform, or who have performed, labor on the roads in his district; the amount of commutation money received from any and all sources whatever and how the same has been expended; and shall pay such balance to and file such report with the Trustee of his township on that day.

(Section 7788.)

324. Duty of Trustee to audit supervisor's report. Such Township Trustee shall audit the reports referred to in the last section and enforce the payment of any such balance and compel such report by suit.

(Section 7789.)

325. Makes inventory of, and responsible for tools. Every road supervisor shall be responsible for the care and safe-keeping of all the tools belonging to his road district and on going out of office shall report the number and kind of tools in his hands to the Trustee of his township under oath; and such Trustee shall charge each supervisor, on coming into office, with the whole amount of tools in his district, as shown by the statement of his predecessor in office. Such supervisor shall be liable for any loss of, or damage to the tools belonging to his road district, occasioned by his neglect, to be recovered in the name of his township, upon complaint of the Trustee of such township before any justice of the peace therein.

(Section 7790.)

326. How district boundary lines are to be worked. All roads running on township, county or road district lines are assigned for construction and repairs as follows: On roads running north and south, the north half is assigned to the township or townships and district or districts on the west side of such line, and the south half is assigned to the township or townships and district or districts on the east side of such lines; and on roads running east and west, the west half is assigned to the township or townships and districts on the south side of such line, and the east half of the township or townships and district or districts on the north side of such line, and the highways so assigned shall be under the control of and be kept in order by the Township Trustee of the township to which they are assigned. All roads running on lines dividing this State from other States shall be worked in conjunction with such other State and shall be assigned for construction and repairs in the same manner as above provided in cases where roads run on township or county lines, as far as applicable.

(Section 7791.)

327. Penalties for knowingly receiving inferior work. Any Township Trustee or road supervisor who shall violate any provision of this act, or who shall accept any work knowing that the same is defective according to contract, or who shall give any receipt except for work actually done or material furnished shall be subject to a penalty of not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00), to be collected in a civil action and he shall be liable on his bond for any loss which the township may suffer from violation of this act.

(Section 7792.)

328. Definition of township road. The word township road as used in this act shall be construed to mean any road in any township in this State, the cost of maintenance and repair of which is paid wholly out of the proper township treasury and the oversight and superintendence of which is vested in the proper Township Trustee.

(Acts 1913, p. 877.)

329. 1913 Road law repeals all conflicting laws. All acts and parts of acts in conflict with the highway act of 1913 were repealed by that act.

HIGHWAYS.

(Acts 1913, p. 411, Secs. 7759d and 7759h.)

330. Condemnation proceedings for gravel pits—Counties 90,000 to 150,000. The act 1913, authorizes boards of commissioners of counties with population 90,000 to 150,000 last preceding census, when adjudged necessary to the interests of its free gravel roads or turn-pikes, to require an entry upon any lands, stream, lake or river to procure gravel, sand, stone, timber or other material for such roads.

This is sought through condemnation proceedings in civil action in the circuit or superior court.

The act also provides for sale of road material to townships.

Section five of the act reads as follows:

The board of commissioners of any such county may sell any of said road material to any of the townships of said county for highway purposes upon receipt from the Township Trustees of said townships of a sum not less than the actual cost to the county of the furnishing of said road material. In the event said county should sell any of said road material to a township, the Trustee of said township shall pay to the auditor of such county the price agreed upon and thereupon said money shall be paid to the treasurer of said county by said auditor, and that said auditor shall take a receipt therefor from the treasurer and said receipt shall be filed in the auditor's office of said county and be made a part of the records thereof.

BRIDGES.

(Acts 1885, p. 58, Sec. 3795.)

331. 1885 Act—Election—Non-liability of township for certain claims. Under the act 1885, where a township has by 60 per cent. of the voters at an election decided to make an appropriation to aid in the construction of a bridge over a boundary stream; it is provided that such township shall not be liable for any debt or claim for work, labor or materials furnished in its construction or its repair; nor for any personal damages to any one by reason of imperfect construction or the same getting out of repair.

(Acts 1913, p. 609, Sec. 3823a.)

332. 1913 Act—Bridges, erection or repairs, \$100 or less—Township road fund. Under the act 1913, it is provided that hereafter all bridges erected or repaired on public highways, when the cost of erecting or repairing shall not exceed \$100, shall be built by the Township Trustee and paid for out of the township road fund.

Section 2, repeals all laws or parts of laws conflicting with the act.

DITCH—ASSESSMENTS.

(Acts 1907, p. 508, Sec. 6150.)

333. Ditch assessments paid from township fund. Assessments made against a township as benefits in the construction of a public ditch shall be paid from the township fund.

DRAINAGE—TOWNSHIP ACT OF 1915.

(Acts 1915, p. 320.)

334a. Supervision Township Trustee. The cleaning, repair and general superintendence of all ditches or drains that may have been, or may hereafter be, constructed under and by virtue of any law of this State, except dredged ditches, shall be under the exclusive charge and supervision of the Township Trustee of the township in which such ditches or drains or any part or parts thereof are located, and it shall be the duty of such Township Trustee to see that all such ditches or drains, or such part or parts thereof as lie within his jurisdiction are cleaned out and kept open and in proper repair and free from obstructions, in conformity with the original specifications thereof, and in such manner that they may fully and completely discharge the functions for which they were designed and intended, and such Trustee shall likewise have and exercise general supervision over such ditches or drains when the work of cleaning and repairing shall have been completed and accepted, and to make and supervise the levy and expenditure of such assessments as may be needful to keep such ditches or drains in a reasonable state of preservation and repair.

Note: This law does not apply to ditches or drains which have been or may be constructed by drainage corporations.

The cleaning and repairing of any public drain (except dredged ditches) should be done by virtue of this law under the supervision of the Trustee, unless the requisite number of landowners interested in any such drain shall file a petition with the county auditor to have the work done under the county drainage act, and the board of commissioners shall grant such petition, whereupon the work of cleaning and repairing such drain shall be done under the supervision of the board of county commissioners, and such drain shall thereafter continue to be under the jurisdiction of the board. Section 35, Acts 1915, p. 417, at p. 453.

334b. Duty to clean and repair. It shall be the duty of the Township Trustee of each and every township of this State, in which any such open ditch or drain, or any part or parts thereof, are located, to clean out, and repair, and remove all obstructions therefrom, biennially. Except as otherwise provided in this act, no Township Trustee of any township in this State shall be authorized or required to clean out or repair any open ditch or drain or any part or parts thereof within his jurisdiction until at least one (1) year shall have elapsed since its construction, if newly constructed, or until one (1) full year shall have elapsed since it was last cleaned out or repaired under the provisions of any former law. And in order to equitably distribute the work of cleaning or repairing any such open drains or ditches over such biennial periods as are herein provided for, it is hereby declared to be the intent and purpose of this act that all open ditches and drains situated within any township in this State shall be divided into two (2) groups, on the basis of the necessity or urgency for such cleaning or repair, or the time which has elapsed since such drains or ditches were last cleaned out, repaired, or constructed. All such open drains or ditches which are comprised in the first group shall

be cleaned out and repaired in 1915 and every two (2) years thereafter, and all such open ditches or drains comprised in the second group shall be cleaned out and repaired in 1916 and every two (2) years thereafter, and so on, yearly, group alternating with group. Such groups need not comprise an equal number of such open drains or ditches, and the classification or grouping of such open drains or ditches shall be made by the Township Trustee of the township wherein such open drains or ditches are located, in conformity with the provisions of this section, avoiding in all such groupings or classifications, unreasonable, arbitrary, or invidious discriminations.

334c. Employment of surveyor. The Township Trustee of any township in this State, in order to more accurately ascertain the depth and width of such open ditch or drain according to the original specifications and grade line thereof, and to divide such work into stations not exceeding one hundred (100) feet in length, and to compute and determine the number of cubic yards of earth which it will be necessary to remove from each one hundred (100) feet of such ditch or drain, and to determine the labor necessary to repair such open ditch or drain in such manner that it will conform to the original specifications thereof, and to establish the necessary grade stakes, and to perform any and all other engineering work of any kind or character whatsoever which may be necessary to fully carry out the proposed work of cleaning and repairing, is hereby authorized to procure the assistance of the county surveyor, or a competent engineer if the county surveyor be incompetent, or not entirely disinterested. Such surveyor or engineer shall receive for his actual services in assisting such Township Trustee, as hereinbefore provided, the sum of four dollars (\$4.00) per day, and not to exceed two dollars (\$2.00) per day for the services of each deputy surveyor, and the same rate for parts of days, to be paid out of any money in the township treasury not otherwise appropriated, upon a report on oath filed with such Township Trustee; but in cases where it is necessary to employ a civil engineer to act in such capacity as a deputy surveyor, then such deputy shall be paid at the rate of not to exceed four dollars (\$4.00) per day for the time actually employed: Provided, That the total amount to be allowed to such surveyor or engineer for the services of himself and his necessary assistants shall not exceed the sum of ten dollars (\$10.00) for each mile of any such open ditch or drain. All preliminary work preceding the actual work of excavation, including the engineering, clerical work, the advertising, and the letting of the contracts of any ditch or drain contemplated in this act, shall be completed by the first day of August of the year in which such repair work is done. As soon as practicable after the county surveyor or civil engineer shall have completed his surveys, he shall prepare a written report in which shall be embodied all such computations, specifications, information, data and statistics which he may have ascertained from his survey, and which may be necessary to enable such township trustee or any contractor to successfully carry out the work of cleaning and repairing; and he shall, on application of such Trustee, deliver such report to such Trustee.

334d. Cleaning—Advertising for bids. After procuring such computations and specifications from such surveyor or civil engineer as provided for in section three (3) of this act, such Township Trustee shall furnish on demand to any person interested, or to any one proposing to bid on such work, the computation of the number of cubic yards of excavation in each station as is above provided for, and such other facts appertaining to such work which such Trustee may have at his disposal; and he shall give notice for two (2) weeks and in at least two (2) issues of a newspaper of general circulation printed and published in each county in which any lands assessed for benefits are situated, and the office, plant or establishment of which newspaper is located nearest to the line of the ditch or drain, and the last insertion of which notice shall be at least ten (10) days prior to the day on which the contract for the cleaning and repairing of such ditch or drain is to be awarded, as hereinafter provided. And he shall likewise give notice for ten (10) days by posting written or printed notices in at least five of the most public and conspicuous places in such township or in the vicinity of the proposed work. Such printed or posted notices shall set forth the time when and the place where such ditch or drain shall be sold for repairs.

334e. Awarding of contracts. Such Township Trustee shall on the day and hour and at the place designated in the notice, proceed to let such work by contract to the lowest and best responsible bidder. He may let the work as a whole, or subdivide the same into two or more sections and let the same in separate contracts, as will in his best judgment the most speedily and economically accomplish its completion: Provided, That any person against whose lands assessments for repairs have been made shall have the preference, at the same rate, over any other contractor, to the extent of his individual assessment, respectively, and if such person so assessed for the repair of such ditch or drain shall be present at the time when such contracts for repairs are let, and shall demand a contract for such portion of such work as shall approximately equal his assessment, and shall, in the judgment of the Township Trustee, be entirely competent to undertake such work. And in the event that a portion or allotment of such work is contracted to any person or corporation interested in the repair thereof, such Township Trustee shall, whenever practicable, locate such share, portion or allotment of such ditch upon such tract of land owned by such person, or upon the right of way of such corporate road or railroad in such manner as to meet the convenience of the owner or owners, and he shall fix a permanent mark or monument at the place of beginning of such portion or allotment and he shall likewise establish a permanent mark or monument at the termination of such portion or allotment and give the exact location of such portion or allotment, its length in feet, and a brief description of the manner in which the work shall be done. Any such interested person or corporation to whom a share or portion has been sold, shall, within the time which shall be reasonable, and which for good cause, such as inclement weather or other unavoidable causes, may be extended under the direction of such Township Trustee, construct such part of

such work so set off to him, and if such person or corporation is not ready with a sufficient force to execute and proceed properly and expeditiously with such work when the contractor shall have the work ready for him to begin, in such manner as not to retard or obstruct the progress of the work, or if such person or corporation shall fail or refuse to construct such portion of such work so contracted to him within the time and according to the specifications, or should it become manifest, before the expiration of such time, that such person or corporation would not complete the same, or would be unable to complete the same within the time limited, or in the manner specified, then such person or corporation shall forfeit all right conferred by his contract to such contractor and shall in addition thereto be liable to such contractor for any damage for any avoidable delay which such contractor may suffer by reason of the neglect or failure of such person or corporation to proceed properly with such work, but such person or corporation so in default shall be allowed on his contract a fair price for the work he has performed up to the time his contract is so annulled, such price to be determined by the Township Trustee letting the contract for the work. If such person or corporation to whom an allotment of work is contracted shall perform his work within the time specified, the price thereof shall be applied on his assessment, and the same shall not be collected of him as hereinafter provided. Any person or persons who shall have successfully bid for the whole or any part of such work shall when the same is set off to him, enter into a contract with the Township Trustee to perform such part of such work and give bond with two freehold sureties, for not less than double the amount for which the same is sold to be approved by such Township Trustee, for the performance of his contract, and that he will pay all damages occasioned by his nonfulfillment of his contract, which may be recovered in any court of competent jurisdiction. And the Township Trustee may bring suit in the circuit or superior court of the county upon any undertaking or upon the bond of any contractor for any breach thereof, and the amount recovered shall be paid into the general township fund of such township, and in all suits brought by the Township Trustee under the provisions of this act such Township Trustee shall also recover attorney fees and the judgment shall be without relief from valuation or appraisement laws. And in case any person or persons whose lands are assessed for the repair of such ditch or drain shall be damaged by reason of such default and failure of such contractor to complete the work within the time limited, such contractor so in default shall be liable on his bond to the person or persons so damaged to the full amount of such damages, which may be recovered in any court of competent jurisdiction in a suit or an action on such bond in the name of the State of Indiana on the relation of the person or persons damaged for the use of such person or persons injured or damaged, and the amount recovered shall be paid to the person or persons injured.

334f. Trustee has charge of work. The Township Trustee shall oversee all such work and have the same done in strict accordance with the specifications as hereinbefore described and in a workmanlike man-

ner and with reasonable expedition, and if such Township Trustee shall refuse, fail or neglect to have such repairs made and done according to the provisions of this act and conformable to the specifications as hereinbefore provided, he shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be fined in any sum not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00), for each and every offense. And when said work is completed said Trustee may have the same accepted by a competent surveyor, and the service of the surveyor shall be paid by the township.

334g. Repairing obstructed drainage. And such Township Trustee shall likewise be authorized and required to clean out and repair any open or untiled ditch or drain within his jurisdiction when such ditch or drain shall have become choked or obstructed by accumulations of sand, earth, brush, debris or other material and when the flow of the water in such ditch or drain is checked, obstructed or dammed up thereby. And if the probable cost of such repair will not exceed ten dollars (\$10.00) such Trustee shall proceed promptly to have such work done in the most efficient and economical manner. And he shall pay the cost of such labor and repair out of the emergency fund of the proper ditch or drain hereinafter provided for, unless there be no such fund or unless such fund shall be exhausted. And in the event there be no such fund or when such fund shall be, or shall become exhausted, then such Township Trustee shall pay the cost of such labor and repairs in the first instance out of the township treasury and when the first assessment for biennial repairs next succeeding shall be made, such sums, so advanced, together with any interest, at the rate of six per cent. (6%) per annum, which has accumulated thereon, shall be added to and become a part of the sum or sums raised for repair work and shall be assessed and distributed proportionately, as herein provided, on all persons or corporations assessed for repairs. But if the probable cost of such cleaning or repairs shall exceed ten dollars (\$10.00), then and in that event such trustee shall proceed in all cases as is in this act provided for the biennial repair of open or untiled ditches and drains.

334h. Shrubbery removed. The Township Trustee shall have all brush, weeds, willows, trees, or other natural growth removed from the banks of all open and tiled ditches and drains excepting in cities and towns, or from the banks of such part or parts thereof as lies within his jurisdiction for a distance of twenty (20) feet on either side thereof, during the month of July, each year except where such natural growth other than weeds protects the washing of such ditches and does not interfere with the flow of water in such ditch. If the total cost of cutting and removing such brush, weeds, willows or other natural growth shall not exceed ten dollars (\$10.00) such Township Trustee shall proceed to have such work done in the most efficient and economical manner and he shall pay the cost of such labor out of the proper emergency fund if there be such fund, and unless such fund be exhausted, and in the event that there be no such fund, or that the fund shall be or shall become exhausted, then such Township Trustee shall pay the cost of such labor or repairs, in the first instance

out of the township treasury and when the first assessment for biennial repairs for any open drain, or for the creation of an emergency fund in the case of tile drains next succeeding shall be made, such sum, so advanced, together with any interest at the rate of six per cent. (6%) per annum thereon, shall be added to and become a part of the sum or sums raised for repair work and shall be assessed and distributed proportionately, as in this act provided, on all persons or corporations assessed for repairs. But if the probable cost of removing such growths shall exceed ten dollars (\$10.00) then and in that event such Trustees shall at any time prior to July 1, each year, let the contract for the removal of such weeds, brush, willow trees or other natural growth to the lowest and best responsible bidder, after having published notice in some paper enjoying a general circulation among the persons interested therein: Provided, That the last of such notices shall be inserted at least ten (10) days prior to such letting. And he shall pay the costs of such labor or repair in the first instance out of the township treasury and when the first assessment for biennial repairs of any open drain or for the creation of an emergency fund in the case of tile drains, next succeeding shall be made, such sum, so advanced and expended, with interest at the rate of six per cent. (6%) per annum which has accumulated thereon, shall be added to and become a part of the amount or amounts raised for such repair work and shall be assessed and distributed proportionately as herein provided. If any such Township Trustee in this State shall refuse, fail or neglect to have such repairs made and done according to the provisions of this section he shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined in any sum not less than ten dollars (\$10.00) nor more than twenty-five dollars (\$25.00) for each and every offense.

334i. Tile drains—Cleaned and repaired. All the drains which may be within the jurisdiction of and under the supervision of the several Township Trustees of this State shall be repaired under the direction of such Trustees whenever the necessity for such repairs may arise or exist and shall not be classified for biennial repairs as herein provided for open drains. Any Township Trustee of any township in this State shall be and is hereby authorized to repair any tile drain within his jurisdiction, at any time, upon notice of the necessity of such repairs, by any person or corporation interested. Upon the receipt of such notice, such Township Trustee shall proceed immediately to have such tile drain repaired without advertising, letting a contract or contracts for the performance of the work, or imposing or apportioning assessments as hereinafter provided, if the total cost of such repair does not exceed ten (\$10.00) dollars, and such Trustee shall pay such cost of repair out of the emergency fund of the proper tile drain, as hereinafter provided, if there be such fund, and unless such fund be exhausted. And in the event that there be no such fund, or that the fund shall be or shall become exhausted, then such Township Trustee shall pay the cost of such labor and repairs out of any funds in the township treasury not otherwise appropriated. But if and in the event that the cost of such repairs shall exceed ten dollars (\$10.00)

then such Township Trustee shall proceed by advertising and letting a contract or contracts for the performance of the work in all respects as is provided in this act for the letting of contracts for the repair and cleaning of open ditches or drains. As soon as any such contract or contracts shall have been awarded, and if there be no emergency fund, such Township Trustee shall provide for the creation of an emergency fund by levying an assessment upon the lands which will be benefited by such repairs in the proportion and on the basis of the original assessment for the construction of such tile ditch or drain and in accordance with the benefits received thereby.

334j. Certifying cost—Emergency fund. The Township Trustee shall certify the cost of the maintenance and repair of any ditch or drain, or any part or parts thereof, which lie within his jurisdiction and which is cleaned out and repaired under his supervision, and he shall certify the cost of his necessary assistants, and any and all other expenses authorized by any of the provisions of this act, as soon as such costs are known and ascertained. And he shall likewise provide for a fund to be known and designated as an emergency fund, for such purposes as are in this act provided. Such emergency fund shall be equal to approximately one per cent. (1%) of the original costs of the construction of such ditch or drain. And in order to raise the necessary money to defray the expense herein authorized and to create and replenish the emergency fund provided for in this section, such Trustee shall apportion and assess the costs necessary to repair any tile drain and the sum or sums required to create or replenish the emergency fund, hereinbefore defined, upon the lands which will be benefited by such repairs or removal of obstructions in proportion and on the basis of the original assessment for the construction of such tile drain and according to the benefits received thereby. If any tile drain contemplated in this act shall have been newly constructed, or reconstructed the cost of such reconstruction shall be taken as the basis in determining the proportionate assessments for benefits or damages in repairing or cleaning. If at any such biennial levy for necessary costs of labor and repairs or replenishment of the emergency fund, such Trustee shall find that the emergency fund levied at the last preceding biennial assessment is not exhausted, and if in his judgment no additional levy for an emergency fund is required, then and in that event he shall not be required to make such additional levy for the increase of such emergency fund.

334k. Tax levy. The amount or amounts of money which may be necessary to clean or repair any open ditch or drain and to create an emergency fund to keep such ditch or drain in a state of repair, as hereinbefore provided, shall be raised by levying a flat or uniform rate upon all agricultural lands, town or city lots, streets, alleys, highways, public grounds, and railroad rights of way which may be benefited. For purposes of taxation each town or city lot shall be deemed to be equivalent to one (1) acre of agricultural land and shall be assessed at a uniform rate per acre or per lot, as the case may be. The acreage comprised in all highways, streets, alleys, public grounds or railroad rights of way shall be estimated and assessed proportionate-

ly. The Township Trustee shall award to each tract or parcel of land through which any open ditch or drain passes reasonable damages, which in his judgment, accrue to such lands by reason of the presence or existence therein or thereon of such open ditch or drain, and the benefits assessed to such tract or parcels of land shall be abated accordingly. The Township Trustee shall take note of any accumulations of earth or debris or any other obstructions in the channel of such ditch or drain which are directly traceable to the negligence of any landowner. The Trustee shall notify such landowner of the presence of such accumulations or obstructions and give him an opportunity to remove them at his own cost, and upon failure or refusal to do so, the Trustee shall estimate the approximate cost of removing such obstructions and accumulations and assess the same as special benefits to such landowner and the special assessment so made shall be collected at the same time and in the same manner that assessments for cleaning and repairs are collected.

3341. Record of assessments—Objections. Such Township Trustee shall reduce such assessments to writing, and after the same are finally fixed and established he shall record the same in a book to be kept for that purpose, and known as the township drainage record. He shall thereupon cause to be posted up, for not less than ten (10) days, in five (5) public places in the township where lands are assessed for the repair of such work, written or printed notices of the place where and the time when he will hear all objections that may be made to such assessments, which notice may be in substance as follows:

To whom it may concern:

You are hereby notified that I will be at my office on the..... day of19...., at the hour of and will then and there hear all objections that may be made to my assessment for cleaning out biennially and keeping in repair (or creating an emergency fund in case of a tile drain) the ditch, in township, county, Indiana, when and where you can appear and be heard if you see fit.

.....

Township Trustee.

Dated this.....day of 19...

A copy of said notice shall also be sent by mail to each individual whose lands are assessed for the repair of such work, and to an officer of each corporation, and to a station agent of each railroad which has been assessed for the repair of such work. Where the residence of any non-resident owner of such land is known to the Township Trustee, he shall send a copy of such notice by mail to such non-resident. If a non-resident owner of land has a known agent in the county a copy of said notice shall be mailed to such agent.

334m. Power to change assessments. Upon the day named in such notice, such Township Trustee shall be present at the time and place therein mentioned, and shall hear all objections made to such assessments, and shall have power to administer oaths to all persons

examined before or by him. He may adjourn the hearing from day to day, or from time to time, as may be deemed necessary until all objections are heard. All persons interested shall take notice of such adjournment without further notice. After hearing all objections that may be offered to such assessments, such Township Trustee shall confirm or change the same as justice may require, and shall enter an order accordingly, which shall be final and conclusive upon all parties interested, unless appealed from in ten (10) days thereafter.

334n. Omitted assessments—Appeal. If any person or corporation benefited by any ditch or drain now constructed or which may hereafter be constructed under any of the drainage laws of this State, shall have been inadvertently or for any other reason omitted in the original assessment for the construction of such ditch or drain, the Township Trustee shall, by and with the aid of the surveyor or civil engineer as hereinbefore provided for, and at the time when ascertaining the grade line and making the specifications for such ditch or drain, levy on such person or corporation so benefited a reasonable assessment for the repair of such ditch or drain. Any person or corporation aggrieved by any assessment imposed under the provisions of this act may appeal therefrom to the circuit court or the commissioners' court of the county by filing with the clerk of said court or the county auditor, within ten (10) days from the time of such order, an undertaking conditional that he will duly prosecute such appeal, and pay all costs that may be adjudged against him on such appeal, such surety to be approved by said clerk or county auditor; whereupon such clerk or county auditor shall issue a notice in the nature of a summons to such Township Trustee, which shall be served by the sheriff of said county, and thereupon such Township Trustee shall file with such clerk or county auditor a copy of the record of such assessment and the objection of the appellant thereto, which shall be all the proceedings necessary upon such appeal. If the circuit or commissioners' court reduce the assessment one-fifth in amount then all costs occasioned by such appeals shall be taxed against such Township Trustee, and paid out of the general funds in the township treasury not otherwise appropriated, otherwise the costs shall be adjudged against the appellant. If more than one person appeal separately the cases shall be consolidated and tried together. The circuit or commissioners' court may confirm the assessment made by the Township Trustee or change the same, and its decision upon such appeal shall be final and conclusive. In case of the subdivision of tracts of land the assessment for repairs of such drains and ditches as may be located thereon shall be proportionately divided by such Trustee or by contract between the persons interested and the duties prescribed under this act, pass to grantee.

334o. Railroad assessments. That in all cases where the record of the original assessment for the construction of such ditch or drain shall have been lost, destroyed, mutilated, or is for any other reason inaccessible, such Township Trustee and such surveyor or civil engineer shall be authorized and required to ascertain and determine by actual view and inspection the lands and highways and right of way of any

railroad or railroads which will be benefited by such work of repair and shall fix and apportion the assessments on such lands, highways, right of way and easements as shall in their judgment seem just and equitable, conformable to any laws which are now or may hereafter be in force in this State in relation to the construction of drains and ditches.

334p. Trustee collects assessments. The tax assessed for the repair and maintenance of such ditches and drains shall be paid to the Township Trustee as follows: Twenty-five (25) per cent. thereof shall be paid to such Township Trustee within thirty (30) days after the commencement of any repair. The remaining seventy-five (75) per cent. of such assessment shall be paid in three equal installments at intervals of thirty (30) days each, or as the work progresses. And if any person or corporation assessed for the repair of any such ditch or drain shall permit his four (4) installments to become delinquent, such delinquent shall be liable to a penalty of not to exceed eight per cent. upon the amount of any installment not paid when due, which the persons or property assessed shall pay, together with the cost of collection, and such Township Trustee may bring suit in any court of competent jurisdiction of the county wherein such ditch or drain is located to collect such delinquent tax and expense and enforce and foreclose the lien on such land or railroad. If any costs shall have been paid in the first instance out of the township treasury, the Township Trustee shall take all such advancements for the repair of any such drain into consideration, including such sums advanced, together with interest at the rate of six per cent. per annum thereon, in such assessments and when collected he shall reimburse such township for funds advanced for the repair of such drain. And all moneys derived from assessments for any repairs contemplated by this act are hereby declared subject to deposit and such Township Trustees shall deposit all such funds in the depository or depositories of such townships selected by the proper board of finance and he shall likewise file with the secretary of such board of finance a verified statement of the funds so deposited. And such funds shall not be subject to withdrawal except to discharge the obligations incurred by the provisions of this act for the repair of such ditches and drains and only as the work progresses. And if any interest accrues on such fund it shall be added to and become a part of such fund. And such Trustee shall keep a true and correct account of all funds collected, advanced, expended or disbursed in a book provided for that purpose, the account with each drain being kept separately. Subject otherwise to the provisions of this section, the assessment to create or replenish the emergency fund of any tile drain may be paid within thirty (30) days after the beginning of any repairs.

334q. Credit for blind ditch. Where any person or persons shall have converted that portion of any ditch or drain running through his or their lands or parts thereof into a blind ditch by putting in drain tile of sufficient dimensions to serve the purpose of drainage, such drain tile so put in being continuous from the head or beginning of such ditch or drain through the land of the owner or owners, and

thus obviating the necessity of working that part of such ditch so tiled on his or their lands, such tiling shall be taken into consideration in making assessments for repairs, and the assessments hereinafter provided shall be made among the landowners, roads or railroads only through whose lands such ditch or drain is open; and where assessments have been made to include land or lands through which such blind ditch or tiling forms a part of the open ditch, the owner or owners shall receive due credit for the portion so tiled. But such person or persons who shall have converted that portion of any such ditch or drain running through or across his or their lands or part thereof into a blind ditch by putting in suitable drain tile of sufficient dimensions to serve the purpose of drainage, shall be responsible for the replacement of all tile which are found to be defective, or which have been crushed or broken, and for the removal of all obstacles or obstructions which may have accumulated in such tile, and such only, which extend through or across the land or lands of such persons, and which are directly due to such crushed, broken or defective tile. But when the accumulations or obstructions shall be directly traceable to the negligence of other persons interested in such ditch or drain, or due to the natural and unavoidable accumulations of earth, leaves, debris, or other material, the expense of removing such obstructions or accumulations shall be charged to and paid out of the funds raised by proportional assessment as herein provided.

334r. Adjoining townships—Joint powers. Whenever it may be necessary in cleaning or repairing any ditch or drain contemplated in this act lying on, along, across or near to the line between any two or more contiguous or adjacent townships, and when such drains or ditches can not be cleaned, repaired or improved in the best manner without affecting the lands in such contiguous or adjacent townships, the Township Trustees of the several townships in this State, so adjoining other townships therein, shall have authority to join with the proper Trustees of such contiguous or adjacent townships in the repair or improvement of any such ditch or drain. Such Trustees of any such contiguous or adjacent townships are hereby authorized to proceed jointly in the repair or improvement of such ditch or drain, each to pay such proportion of the repair or improvement of any such ditch or drain as shall be just and equitable, and all the provisions of this act so far as applicable shall govern such Township Trustee in relation to such joint work of improvement or repair. And any Township Trustee shall be authorized to proceed similarly if the ditch or drain which it is desired to clean out or repair lies on, along, across or near to the state line between the State of Indiana and any adjoining State: Provided, always, That such townships, counties or other political subdivisions in other States shall pay their proper share of the necessary cost and expenses: Provided, That in all cases where the ditch or drain lies on, along, across or near to the line between any two or more contiguous or adjacent townships in this State, any one or more Trustees of such townships may delegate the authority conferred on them by this act to any one of their number, preferably to the Trus-

tee of that township in which the greater portion of such ditch or drain is located, and he shall proceed in all cases as is provided in this act.

Any Trustee who shall oversee and supervise the work of cleaning or repairing any such inter-township drain shall be entitled to receive from the township treasury of the adjoining township the sum of three dollars (\$3.00) per day for each day or fraction thereof which he is necessarily employed in overseeing the work on such part of such inter-township drain which is situated within such adjoining township or townships.

SECTIONS OMITTED.

Note: Laws constituting Sections 335 to 339, inclusive, of this book, were repealed by the legislature of 1915, and for that reason are omitted.

OBSTRUCTIONS, REMOVAL.

(Acts 1907, p. 508, Sec. 6173.)

340. Owners of lands liable for obstructions by cattle. That the owner of inclosed land through which any allotted ditch may run, shall be liable to the Trustee for any obstruction caused by cattle or stock, and upon notice from the Trustee, the owner of said land shall immediately remove such obstruction, and if not so removed, the Trustee shall have said ditch repaired, and may sue such owner in any court having jurisdiction, and collect all expenses incurred in making any such repair, provided such expenses shall include the reasonable attorney's fees.

DITCHES—PUBLIC TILE—PETITION FOR REPAIRS.

(Acts 1913, p. 152, Sec. 6174.)

341. When Trustees may use road funds to repair tile ditches. Under the amended act 1913, provision is made for the repair of any tile ditch which has been constructed under any law of the State.

The act provides that any owner who may have been assessed for such construction may petition the circuit or superior court, or the board of commissioners, alleging that such tile drain can be more economically repaired, or that the drainage is incomplete and can be made sufficient by conversion of the ditch into an open one, or in other ways.

The act also provides that when such public tile drainage has become defective, by reason of broken tile, uncovered, displaced or stopped up, and the cost of such repair will not cost to exceed \$50, then the Township Trustee of the township in which such defective condition exists, may repair the same out of the road funds available in his hands.

341a. JOINT DITCHES—BY AGREEMENT.

(Acts 1915, p. 563.)

This act provides that in case of the failure of a person interested in a joint ditch, which has become obstructed, to repair his portion, any landowner damaged by such obstruction may report the facts to

the Trustee. The Trustee shall then notify the offending owner to repair his drain, and on his failure so to do, the Trustee, within ten days of such notice, shall proceed to make the necessary repairs, and certify the cost thereof to the county auditor, who shall add 50 per cent. penalty, and collect the same as any other taxes are collected. If any surplus exists after payment of the cost of the repair, it shall be added to the road fund for repair of free gravel roads.

FENCES—TRIMMING HEDGE FENCE—PARTITION.

(Acts 1895, p. 61, Sec. 7405.)

342. Hedge fence—Annual trimming—Partition. The act of 1895, requires that all hedges or other live fences along the lines dividing lands owned by different persons in the State of Indiana, shall be cut and trimmed down to the height of not exceeding five feet and to a width of not exceeding three feet once in every calendar year.

(Acts 1895, p. 61, Sec. 7406.)

343. Duty of Trustee as to trimming partition line hedge fence. It shall be the duty of any Township Trustee, upon complaint in writing, signed by the complainant, who must be an owner or owners of land adjoining said fence, that any person owning any hedge or other live fence upon a line dividing lauds owned by different persons, has neglected to cut and trim said hedge or other live fence as heretofore provided, to examine within five days after receiving such notice all hedges or other live fences so complained of, and if there shall be any hedge or other live fence that has been complained of, that has not been cut and trimmed as heretofore provided, he shall give the owner or owners thereof written notice to cut and trim such hedge or other live fence and to remove the brush to his own land within thirty days after receiving such notice, such notice to be served by reading the same to said owner or owners, or by leaving a copy of the same at his usual place of residence: Provided, That if the owner or owners of lands divided by such hedge or other live fence be not residents of the townships, where such hedge or other live fence is located, such notice shall be served by mailing a copy of the same to said owner or owners directed to his or their last known postoffice, and if such owner or owners, their agents, or tenants, do not proceed to cut and trim such fences and remove the brush as heretofore provided, that such Trustee shall, immediately after the expiration of thirty days, cause said hedge or other live fence to be cut and trimmed, as heretofore provided, and the brush removed to the owner's land; such Trustee shall recover all expenses incurred in cutting and trimming such hedge or other live fence and removing the brush as before provided, by suit against the owner or owners of the lands on which such hedge or live fence is situated, before any justice of the peace of the township, in which such hedge or other live fence is situated, or they may bring suit in the circuit or superior court of the county in which such hedge or other live fence is situated, to collect such expenses and any judgment so recovered shall be without relief from valuation or appraisement laws.

(Acts 1895, p. 61, Sec. 7407.)

344. When prosecuting attorney brings suit. It is hereby made the duty of the prosecuting attorney to prosecute such suit in the name of the State of Indiana on relation of such Township Trustee, for which service the prosecuting attorney shall receive the sum of ten dollars to be collected as part of the cost of such suit.

(Acts 1895, p. 61, Sec. 7408.)

345. When Trustee neglects—Penalty. Any Township Trustee, who shall fail or neglect to perform his duties as laid down in this act, upon complaint of any freeholder of said township, shall be fined not more than twenty-five dollars nor less than five dollars.

HEDGE FENCE.

(Acts 1 R. S. 1852, p. 307, Sec. 7806.)

346. Petition to Trustee to plant hedge fence on highway. The Trustee of any township, on petition of an individual desiring to plant a hedge on his land adjoining a public highway, may grant such individual the privilege of placing his fence seven feet on such highway, provided it will not be an obstruction to such highway.

FENCES—PARTITION FENCE DEFINED.

(Acts 1911, p. 515, Sec. 7377.)

347. Definition of a "partition fence." All fences now constructed and used by adjoining landowners as a partition fence or fences unless specially agreed upon by such landowners shall be deemed partition fences and shall be repaired, maintained and paid for as is herein provided.

(Section 7378.)

348. Who shall build—When Trustee shall act. It shall be the duty of all landowners whose lands join and separate said land by a partition fence to be constructed upon the line or lines dividing or separating said lands whether said lands were divided heretofore or may hereafter be divided. In case no division of said partition fence has been made between the landowners for the building or repairing or rebuilding of such partition fence, then in such case the landowner, whose land lies to the east of said fence, shall build the north half thereof and the landowner whose land lies to the west of said fence, shall build the south half thereof and if the landowner's land lies north of the fence to be built, rebuilt or repaired he shall build, rebuild or repair the west half thereof, and if the land lies to the south of such fence, such landowner shall build the east half thereof. And if any landowner fails to build, rebuild or repair such fence after receiving notice as is hereinafter provided, the Township Trustees wherein said land or line is located, shall build, rebuild or repair such fence as is hereinafter provided.

(Acts 1915, p. 638, amending Sec. 7379.)

349. How cost apportioned—Trustee's procedure. All partition fences shall be built, rebuilt, kept in repair at the cost of the several landowners whose lands are enclosed or separated by such fences equally according to the number of rods or proportion thereof such landowner may have along such line of fence whether his, her or their title in fee simple, or a life estate. That if any landowner as above defined, shall fail or refuse to compensate for building, rebuilding or repairing his, her or their proportion of fence, any landowner interested in such fence after having built, rebuilt or repaired his proportion of such fence, shall give to the defaulting landowner, his agent, or tenant twenty days' notice to build, rebuild or repair his proportion of such fence as the case may be, and if such defaulting party shall fail to build, rebuild or repair such fence within said time, such landowner shall then notify the Township Trustee of the township wherein said lands are located of such fact: Provided, That where the fence sought to be established, rebuilt or repaired, is on a township line, in such case the owner or owners shall notify the Trustee of the adjoining township to the one in which the defaulting party lives of the improvement he or they may desire made, and such Trustee shall have jurisdiction of such matter, unless disqualified as hereinafter provided, estimate the costs for such fence, building, rebuilding or repairing the same, as the case may be, and within a reasonable time after being notified such Trustee shall make out a statement and notify such defaulting party of the probable cost of building, rebuilding or repairing such fence, as the case may be, and if after twenty days, said fence is not built, rebuilt or repaired by such defaulting landowners, such Trustee of such township shall build, rebuild or repair such fence as the case may be: Provided, That such Trustee shall use only the materials for such fences as is most commonly used by the farmers of such community: Provided, further, That if such Trustee of such township is disqualified to act, then it shall be lawful and it shall be the duty of the Trustee of the adjoining township, residing nearest to where such fence is situated to act in the premises upon receiving a notice so to do by any landowner interested therein: Also, Provided further, That a lawful partition fence shall be a straight board and wire fence or a straight wire or a straight board fence or a picket fence four feet high, a straight rail fence four and one-half feet high, a worm rail fence five feet high and all fences of every structure to be sufficiently tight and strong to hold hogs, sheep, cattle, mules and horses: Provided further, That if a ditch or creek crosses the division land [line] between two landowners, necessitating additional expense in the maintenance of the part over such stream, if such landowners can not agree upon the proportionate share of each, the Township Trustee shall appoint three disinterested citizens who shall apportion the partition fence to be built by each landowner: Provided, further, That any Trustee related to any of the parties interested or if an interested party himself, then it shall be lawful for the Trustee of any other township residing nearest to where such fence is situated to act

in the premises. Provided, further, That in all cases where a ditch, creek, forms, covers, or marks the dividing line or any part thereof of the lands of separate and different landowners of this State so that partition fences such as are required and provided for in this act can not be built and maintained on such dividing line, then and in all such cases such partition fences shall be built and maintained under the provisions of this act as near to such boundary line as may be, and each landowner shall be required on his own land to build a separate partition fence, and to maintain the same at his own cost. Provided further, That in all cases where partition fences such as are required and provided for in this act, cross any ditch or creek and by reason thereof it is impracticable to construct or maintain that portion of said fence as would cross said ditch or creek, as a stationary fence, then and in all such cases there shall be erected in lieu of such portion of said fence across said ditch or creek, and as a part of such partition fence, flood-gates or other similar structures, sufficiently high, tight, and strong to turn hogs, sheep, cattle, mules and horses or other domestic animals, and so constructed as to swing up in times of high water. And such flood-gates or other similar structures shall be so built and constructed as to connect continuously such partition fences: and, Provided further, That if the building and maintenance of such flood-gate or other similar structure occasions additional expenses, and such landowners can not agree upon the character of flood-gate or other similar structure, or upon the proportionate share of the cost thereof to be borne by each, the Township Trustee upon notice in writing from either landowner of such disagreement and the nature thereof, shall appoint three disinterested citizens, of said township, who shall determine the kind of structure and apportion the cost of such flood-gate or other structure between such landowners, taking into consideration the parts and portion of such fence being maintained by each landowner. And the determination of a majority of such arbitrators of any matter or matters submitted to them shall be final and binding on each landowner. The compensation of such arbitrators shall be two dollars each, which shall be paid by said landowners in the proportion they are ordered to bear the expense of such gate or structure. In case either or both of such landowners shall fail to construct or compensate for constructing the structure determined upon by such arbitrators in the proportion determined, within thirty days from such determination, such Township Trustee shall proceed at once to construct such gate or structure and collect the cost thereof, including the compensation of such arbitrators, from such defaulting landowner or landowners in the same manner as is provided for ordinary partition fences. And such flood-gate or other structure shall be repaired, rebuilt or replaced in accordance with the determination of said arbitrators.

(Section 7380.)

350. Trustee's duty upon completion—Per diem \$3.00. As soon as such Trustee has had such fence built, rebuilt or repaired, he shall

make out a statement in duplicate of the actual cost incurred by him in the building, rebuilding or repairing of such fence, adding to such statement three dollars per day for every day actually employed by him in performing the service required herein, one to be handed to the landowner affected by the work and the other to be filed in the auditor's office of the county wherein said fence is located and where the landowner resides affected by said work and by said auditor placed on the tax duplicate against the lands of the landowner affected by said work, and to be collected as taxes are collected and when so collected to be paid to the Township Trustee filing said statement. The fees taxed by the Township Trustee shall be his sole property when collected.

(Section 7381.)

351. Trustee freed from any personal liability. There shall be no personal liability upon the Township Trustee for any contract he may make by reason of this act for the building, rebuilding or repairing of fences as herein provided, but the contractor shall receive his pay from the township funds, the same to be reimbursed when said contract price is paid into the county treasury.

(Section 7382.)

352. Lands assessed at \$5 or less per acre—Exemption. This act shall be liberally construed in favor of the objects and purposes for which it is enacted and shall apply to all lands whether enclosed or unenclosed, cultivated or uncultivated, wild or wood lot: Provided, That this section shall not apply to any land whose assessed value is five dollars or less per acre or exempt from taxation.

CEMETERIES—ABANDONED.

(Acts 1913, p. 290, Sec. 4438.)

353. 1913 law—Trustee's duty concerning abandoned cemeteries. That any cemetery located in any township, or within any city or town within such township, which cemetery is abandoned, or has been or shall be hereafter deeded to such townships, and not under the control or management of any organization or association or individual whose duty it is to care for and maintain such cemetery, shall be under the care and supervision of the Township Trustee of such township.

(Section 4438a.)

354. Care and maintenance of cemeteries. It shall be the duty of the Township Trustee to care for and maintain in a respectable condition, by fencing, when there is no fence, by keeping the weeds, briars and brush mowed and cleaned up in all public cemeteries located within his township, or within any city or town located within such township, which are wholly or in part abandoned or unused and are not under the supervision of any association, organization or individual whose duty it is to so care for the premises.

354a. DONATIONS FOR CEMETERY TRUST FUND.

(Acts 1915, p. 581.)

The act of 1915 relating to donations of not less than \$100 to boards of county commissioners, or Trustees, for cemetery uses, which shall be cared for and loaned the same as common school funds, provides under Sec. 4, as follows:

The county auditor shall make distribution of the interest accrued on any cemetery fund or funds on the last Monday of January of each year and to the following person or persons: To the Township Trustees of the township in which any abandoned or unincorporated cemetery is located, provided that such cemetery be located on a county line or on a civil township line, then the Trustee whose township lies on the east or south of such cemetery shall have charge of the cemetery and shall receive the money from the county auditor having the fund or funds in trust: To the treasurer of any board of directors of any incorporated cemetery.

The Township Trustee and the treasurer of said board of directors shall each take a receipt or voucher for any money paid out stating the amount paid out, the purpose for which expended and the fund from which it came. The receipts and vouchers shall be filed with county auditor on or before January 1st of each year and shall be presented to the board of county commissioners for examination and approval at their January meeting.

ELECTIONS.

(Acts 1897, p. 199, Sec. 6884.)

355. Trustee inspector of elections in precinct where resides—When not eligible—Qualification of judges. Township Trustees shall, by virtue of their office, be inspectors of elections in the precincts in which they respectively reside, and shall, prior to the opening of the polls in such precincts, appoint as judges of elections two qualified electors of such precinct, who shall have been freeholders and resident householders therein for at least one year, or householders for at least two years next preceding such election, and who are members of different political parties and of the parties which cast the highest number of votes in the State at the preceding general election: Provided, If no persons that are qualified will consent to serve as such judges, or that if there are no persons residing in any precinct qualified to act as judges of election, by reason of the fact that they have not been resident householders within such precinct for one year, then in that case the Township Trustee shall appoint two qualified electors of such precinct as such judges: and, Provided further, That if at least one week or more prior to such election the chairman of the county central committee of either of the two parties that cast the largest number of votes in the State at the last general election shall designate a member of such party as judge, having the same qualifications as above prescribed, he shall be appointed, and such judges, together with the inspector, shall constitute a board of election. No person shall be eli-

gible as a member of the board of election who has anything of value bet or wagered on the result of such election, or is a candidate to be voted for at such election, or who is father, father-in-law, son, son-in-law, grandfather, grandson, brother, brother-in-law, uncle, nephew, first or second cousin of any candidate at such election. If at any time before, or during an election, it shall be made to appear to any inspector, by the affidavit of two or more qualified electors of the precinct, that either of the judges is disqualified under the provisions of this act, he shall at once remove such judge and fill the place with a qualified person of the same political party as the judge removed; and, in case such disqualified judge shall have taken the oath of office hereinafter prescribed, the inspector shall place such oath and affidavit before the next grand jury of the county.

ELECTIONS—MEALS FOR ELECTION OFFICERS.

(Acts 1881, S. p. 482, Sec. 6952.)

356. Trustee to furnish meals—How paid. It shall be the duty of the Township Trustees, in their respective townships, to cause the members of the election board in each township or precinct to be furnished with good, plain, and substantial meals, at the regular hours for meals, during the election day and until the count is finished, but no spirituous, vinous, or fermented liquors shall be furnished. Such Trustees shall be allowed, and paid, by the county board the actual cost of such meals, in their next regular account.

Note: Boards of county commissioners cannot allow a claim to a Trustee for meals which the Trustee himself has furnished.

TALLY PAPERS.

(Acts 1905, p. 193, Sec. 6966.)

357. Must keep tally papers of township separate from others. The tally papers for township elections shall be kept separate and apart from those upon which are recorded the votes cast for candidate for state, district and county offices, and the vote for township offices shall be canvassed as heretofore provided by law: Provided, however, That in all townships having more than ten (10) voting precincts the vote thereof for township offices shall be canvassed by the county board of canvassers as herein provided for all county elections.

TOWNSHIP ELECTIONS.

(Acts 1893, p. 192, Sec. 6982.)

358. Change in time of holding township election—November. The time of holding the election of Township Trustees, justices of the peace, assessors, constables, road supervisors and such other officers of townships as may be provided for by law, shall be changed from the April election, and all such township officers shall be elected at the general election to be held on the first Tuesday after the first Monday in November, 1894, and every four years thereafter, and which election

shall be conducted by the provisions of the law governing said general election.

Note: This law is superseded by Section 359, this book, as to the Township Trustee and assessor. This law is superseded by Section 297, this book, as to the election of road supervisors. Acts 1915, p. 101.

ELECTION OF TOWNSHIP TRUSTEE.

(Acts 1911, p. 113, Sec. 6983.)

359. Extension of terms under act of 1911. The time for holding the election of Township Trustees and assessors shall be changed from the general election on the first Tuesday after the first Monday in November, 1912, to the general election on the first Tuesday after the first Monday in November, 1914; and at the general election on the first Tuesday after the first Monday in November of every fourth year thereafter.

JUSTICES OF PEACE AND CONSTABLES.

(Acts 1897, p. 64, Sec. 6984.)

360. Time for holding election for justices of the peace and constables. The time of holding the election of justices of the peace, constables and such other officers of the township, as may be provided for by law, and the time when they shall enter upon the duties of their respective offices, shall remain as now fixed by law. See Section 358, this book.

(Section 6985.)

361. Township elections governed by general election law. The election of township officers shall be conducted under the provisions of the law governing said general election.

(Section 6986.)

362. Township ballots to be printed on yellow paper—Yellow ballot-boxes. The names of the different candidates for said township offices shall be printed on separate ballots of a yellow color and deposited in separate ballot boxes from that of the state and county ballots; said ballot boxes shall be painted yellow and said ballot and ballot boxes shall be prepared in conformity with the law governing said general elections.

(Acts 1881, S. p. 482, Sec. 6987.)

363. Canvass of the vote—Inspector's duties. The board of judges shall count the votes given for each person for each office, and certify the result, and the inspector shall file one of the poll books and tally sheets, with ballots on a string, in the clerk's office of the county, within ten days after such election. If two or more have the highest and an equal number of votes for the same office, such judges shall, when the result is certified, determine by lot the person entitled to the office, and the next day, the inspectors shall make out and deliver to the person elected, when demanded, a certificate for each person elected to

any office in said township, except justice of the peace: Provided, That, if there be more than one precinct in said township, then the inspectors of the several precincts shall meet, on the day following the election, at the office of the Township Trustee, at as near ten o'clock a. m. as is practicable, and compare the poll books and certificates thereto held by them, and having aggregated the vote of the township, declare and certify the result; and if two or more persons have the highest and an equal number of votes for the same office, they shall determine, by lot, which shall be declared elected, and give a certificate accordingly.

ELECTIONS—TERM OF TRUSTEES.

(Acts 1901, p. 415, Sec. 6989.)

364. When term of Trustee begins. The terms of all Township Trustees and assessors shall begin on the first day of January succeeding their elections.

364a.

PRIMARY ELECTIONS.

(Acts 1915, p. 359.)

The primary election act of 1915 requires the trustee to post in three public places in each precinct of his township, copies of the notice of the holding of such election, which notice the law provides shall be mailed to the Trustee by the clerk of the circuit court, designating in such notices the location of the polling booth in each precinct, the date of the primary and the hours during which polls will be open.

FLOOD-GATES, PETITION, CONSTRUCTION, COST.

(Acts 1903, p. 121, Sec. 6169.)

365. Jurisdiction and duty of Trustee to construct. Whenever the lands drained by a ditch, which has its outlet in a stream or watercourse, is so situated that the water from such stream or watercourse in high water will back up and through such ditch, and overflow such lands drained thereby before such stream or watercourse overflows its banks, it shall be the duty of the Township Trustee in any township where such ditches and watercourses and streams exist, upon the petition of a majority of the persons owning lands benefited by said ditch, to build suitable and sufficient flood-gates at the outlet of such ditch or near enough thereto to prevent the water from said stream or watercourse flowing into said ditch and from said ditch to the low lands lying along the line thereof before the said stream or watercourse overflows its banks: Provided, That cost thereof shall not exceed five per cent. of the assessed value of the property benefited.

(Acts 1903, p. 121, Sec. 6170.)

366. Remonstrance—Hearing by the Trustee. Upon the filing of such petition with the Trustee of such township, such Trustee shall cause to be posted in three conspicuous places in said township notices of the filing of such petition, and such notices shall state the time and

place of the hearing of said petition, which notices shall be posted not less than ten days before the time of hearing, and upon the day set for the hearing he shall consider any remonstrance that may be filed, and shall determine whether such flood-gate shall be constructed. In case he shall determine that it is of benefit to the owners of the lands along the line of such ditch, he shall order the flood-gate to be constructed upon such plans as shall in his opinion be sufficient for the purpose.

(Acts 1903, p. 121, Sec. 6171.)

367. Trustee's further duties—Superintendent—Assessments. Such flood-gates shall be constructed under the supervision of said Township Trustee, and the cost thereof shall be assessed against the owners of the lands benefited by such ditch, and such land shall be assessed for the cost of the construction thereof in proportion to the actual benefits to the lands affected thereby. Such assessments shall be certified by said Trustee to the county auditor, who shall certify them to the treasurer of such county, and such treasurer shall proceed to collect the same as taxes are collected.

(Acts 1903, p. 121, Sec. 6172.)

368. Right of appeal to circuit court—Remonstrance. Any person aggrieved by the action of the Trustee in regard to the establishing of such floodgate, or refusing to establish the same, or by the assessment of the cost thereof, may remonstrate and appeal from the decision of such Trustee to the circuit court, and proceedings in regard to the same shall be controlled by the law regulating remonstrances and appeals in the law provided for the establishment of ditches.

RATS—EXTERMINATION.

(Acts 1913, p. 638, Sec. 7648j.)

369. Rats—Extermination—Teaching hygiene in schools. It shall be unlawful for any person, firm, copartnership, company or corporation owning, leasing, occupying, possessing or having charge of any land, place, building, structure, stacks or quantities of wood, hay, corn, wheat or other grains or materials, or any vessel or water craft, to permit the same to become rat infested, and it shall be the duty of any such person, firm, copartnership, company, or corporation, upon any knowledge or notice, to at once proceed and to continue in good faith to endeavor to exterminate and destroy such rats by poisoning, trapping and other appropriate means, such as may be suggested by the state board of health or the local health officers. And it shall be the duty of the Trustees of the several townships and the boards of School Trustees of the several cities and towns in the State, to make provisions in the public schools under their jurisdiction for the illustrative teaching of the anatomy, physiology and hygiene of the human system; the effect of alcohol and nicotine; the cause and course of consumption; the dissemination of diseases by rats, flies and mosquitoes and the effects thereof, and the prevention of diseases by the proper selection and consumption of food.

FISH LADDERS.

(Acts 1885, p. 51, Sec. 7442.)

370. Law as to requirement of fish ladders—Mill dams. Under act 1885, it is required that all owners of mill dams over four feet in height shall construct and maintain fish ladders to allow fish below the dam to pass over into the waters above.

(Section 7443.)

371. When Trustee shall erect fish ladders. If the owners of such dam fail or refuse to comply with this requirement, it devolves upon the Township Trustee to construct and erect such ladder, in such manner and of such material as shall be directed by the commissioner of fish and game.

Likewise, if any such fish ladder shall get out of repair, and such owner shall fail to repair same for 30 days, it becomes the duty of the Trustee to cause such repairs to be made, and collect the cost thereof from such owners.

CANADA THISTLES.

(Acts 1907, p. 50, Sec. 7812.)

372. Duty of Trustee upon written notice of supervisor. Upon information being given the road supervisor that Canada thistles to height of six inches are being allowed to grow upon the premises of any owner within his road district, it becomes his duty to enter upon the premises of such owner, and it being ascertained that such information is true, the road supervisor shall notify such owner, his agent or tenant, demanding that all of such Canada thistles be cut off below the surface of the ground, within five days. If at the end of such time such thistles have not been removed such supervisor shall report the matter, in writing, to his Township Trustee.

It then becomes the duty of the Trustee, immediately upon receipt of the report of the road supervisor, to cause the reported thistles to be cut as herein provided; and shall assign this work and their removal to such road supervisor.

Should the supervisor decline to do such work, the Trustee shall employ one resident of the township to perform such cutting and removal, and he may enter such lands for such purpose and shall not be deemed a trespasser.

The Trustee, with the advice of the advisory board, shall pay for such work. When allowed it becomes the duty of the Trustee to file a claim therefor with the county auditor, who places such sum on the tax duplicate where it becomes a lien on the land as other taxes.

The compensation for the person selected to do such work is fixed by the statute at 20 cents per hour for the time actually employed. He must file with the Trustee his itemized claim for such work.

STATE FIRE MARSHAL.

(Acts 1913, p. 556, Sec. 7441d.)

373. Trustees act as assistant fire marshal. The act 1913, establishing the office of state fire marshal, providing for the maintenance of his offices and defining his powers, provides, among other things, viz.:

All municipal fire marshals in those municipalities having such officers, and, where no such officer exists, the chief of the fire department of every incorporated city or town in which a fire department is established, the clerk of each incorporated town in which no fire department exists, and the Township Trustee of each township for the territory of said township lying outside of the corporate limits of any city or town, shall be, by virtue of said office so held by them, assistants to the state fire marshal and subject to the duties and obligations imposed by this act, and shall be subject to the directions of the state fire marshal in the execution of the provision hereof. Immediately upon taking office, the state fire marshal shall prepare instructions to the assistants designated herein and forms for their use in the reports required by this act and cause them to be printed and sent, together with a copy of this act, to each such officer located in this State.

(Section 7441e.)

374. Duties of Trustee as assistant fire marshal—Report of fires. The assistants to the state fire marshal as defined in the preceding section shall investigate the cause, origin and circumstances of every fire occurring in any city or town or territory in any township lying outside the corporate limits of any city or town in this State, by which property has been destroyed or damaged, and, so far as it is possible, determine whether the fire was the result of carelessness or design. Such investigation shall be begun immediately upon the occurrence of such fire by the assistant in whose territory such fire has occurred, and if it appears to the officer making such investigation that such fire is of suspicious origin, the state fire marshal shall be immediately notified of such fact. Every fire occurring in this State shall be reported in writing to the state fire marshal within ten days after the occurrence of the same by the officer designated in section 4 of this act in whose jurisdiction such fire has occurred; such report shall be in the form prescribed by the state fire marshal and shall contain a statement of all facts relating to the cause and origin of such fire that can be ascertained, the extent of damage thereof and the insurance upon such property, and such other information as may be required.

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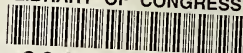
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